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7 General Bankruptcy Counsel to
Chapter 11 Debtor and Debtor in Possession,
8 KOMBU KITCHEN SF LLC, dba NIBLL

9
10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION**

12 In re:

13
14 KOMBU KITCHEN SF, LLC, dba NIBLL,
a California limited liability company,

15
16 Debtor and Debtor in
17 Possession.

Case No. 2:23-bk-17276-SK

Chapter 11

Subchapter V

**JULANDER BROWN & BOLLARD,
LLP’S REPLY TO CLASS CREDITORS’
JOINT OPPOSITION TO APPLICATION
OF JULANDER BROWN & BOLLARD,
LLP, DEBTOR’S SPECIAL LITIGATION
COUNSEL, FOR APPROVAL OF
COMPENSATION AND
REIMBURSEMENT OF EXPENSES**

Date: October 16, 2024

Time: 10:00 a.m.

Courtroom: 1575
255 East Temple Street
Los Angeles, CA 90012

Judge: Hon. Sandra R. Klein

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On October 1, 2024, at a case management conference in the consolidated class actions brought by AJA DE COUDREAUX *et. al.* and MARIA DE JESUS VERGARA, *et al.* (collectively, “Wage Claimants”), the parties discussed with the state court judge whether there was a conflict of interest which might affect Julander, Brown, and Bollard (“JBB”), the attorneys for Kombu Kitchen SF LLC, dba NIBLL (“Kombu”). During this discussion, M. Adam Tate, a partner at JBB, specifically and emphatically stated, “*I do not and cannot represent any of the class members.*” Mr. Tate and his co-counsel explained to the state court (the “State Court”) the circumstances that led up to the instant disagreement, and explicitly assured the Court that JBB would not contact any of the class members directly or indirectly. The issue appeared to be resolved as the State Court then changed the subject and set a trial date of February 10, 2025. At the conclusion of the hearing, the State Court specifically stated that the case was not able to be tried earlier due to procedural and due process issues, but now that Kombu had counsel, the State Court was looking forward to working with Mr. Tate and the other attorneys to get the case resolved.

The very next day, Wage Claimants filed an opposition to JBB’s application for interim compensation (the “Application”), disingenuously asserting that JBB has a conflict of interest because it is supposedly representing both Kombu and three members of the class represented by the Wage Claimants (the “Opposition”). Conveniently absent from the Opposition is any mention of Mr. Tate’s unequivocal representation to the State Court the day before that JBB is not representing any of the class members.

Other than briefing the conflict-of-interest issue, the Wage Claimants do not seriously challenge the Application. Accordingly, the Application should be granted.

II. STATEMENT OF RELEVANT FACTS AND PROCEDURAL POSTURE

JBB was formally approved by this Court to be counsel for Kombu for purposes of defending the consolidated class actions on September 4, 2024. (Dkt. 285.) The other defendants in the consolidated class actions are Keven and Kristen Thibeault, who are represented by the attorneys at Garofolo & Ramsdell. (Declaration of M. Adam Tate [“Tate Decl.”], ¶ 2.)

1 On September 5, 2024, the attorneys at Garofolo & Ramsdell filed two motions for
2 summary adjudication on behalf of Keven and Kristen Thibeault. In support of the motions for
3 summary adjudication, twelve of Kombu's managerial employees signed declarations. All twelve
4 declarants are exempt employees, and it was believed that none of them were members of the
5 classes (because only non-exempt employees are part of the classes). JBB was not in any way
6 involved with obtaining these declarations or with communicating with the twelve declarants. (Tate
7 Decl., ¶ 3.)

8 After the filing of the motions, on September 20, 2024, class counsel inquired of the
9 attorneys at Garofolo & Ramsdell as to whether they were permitted to interview the declarants.
10 Deeply concerned that class counsel would attempt to harass and intimidate Kombu's managerial
11 employees, Kombu asked the declarants if they wanted to be represented by JBB to help them
12 defend the statements made in their declarations. Kombu reasonably believed that this was proper
13 inasmuch as all of the declarants were exempt employees, and Kombu's principals were not aware
14 of any apparent reason why they could not be represented by JBB. All but one of the employees
15 indicated that they wished to be represented. One of the employees did not immediately respond,
16 but Kombu reasonably assumed that he would be responding likewise. (Tate Decl., ¶ 4.)

17 Based on the foregoing, on September 25, 2024, Mr. Tate sent an email to class counsel
18 stating that he represented the declarants. This email is the backbone of the Opposition. (Tate Decl.,
19 ¶ 5, Ex. 1.)

20 On September 30, 2024, Wage Claimants filed a Supplemental Case Management
21 Conference Statement which generally accused the attorneys at Garofolo & Ramsdell and JBB of
22 improper conduct. (Tate Decl., ¶ 6, Ex. 2.) Attached to the Supplemental Case Management
23 Conference Statement was a list of potential class members that was previously prepared by the
24 class administrators over two years ago. This list of class members included three of the twelve
25 declarants (the "Subject Declarants"). This was the first time that anyone at JBB or Garofolo &
26 Ramsdell had ever seen this class list, which was provided to the Wage Claimants' counsel well
27 before either firm appeared in the actions. Prior to seeing the list, JBB had no reason to suspect that
28

1 any of the currently-exempt employees were potentially class members – let alone the Subject
2 Declarants. (Tate Decl., ¶ 6.)

3 Up to this point (as well as thereafter), JBB had not had any direct contact with the Subject
4 Declarants. JBB was not involved with obtaining the declarations in support of the motions for
5 summary adjudication, and Kombu (not JBB) asked the Subject Declarants if they wanted to be
6 represented by JBB mere days before. (Tate Decl., ¶ 7.)

7 The parties attended a case management conference the following day on October 1, 2024.
8 At the hearing, counsel for the Thibeaults and Mr. Tate explained the situation to the State Court
9 and further explained that having being made aware that the Subject Declarants were on the class
10 list, JBB would not represent them. Apparently dissatisfied with the explanation, the Wage
11 Claimants’ counsel specifically asked Mr. Tate if he continued to represent the Subject Declarants.
12 In open court, Mr. Tate clearly and emphatically said that “*I do not and cannot represent any of*
13 *the class members.*” He also explicitly represented that he would not contact the Subject Declarants
14 either directly or indirectly. (Tate Decl., ¶ 8.)

15 To resolve the matter to the Wage Claimants’ satisfaction, the State Court requested that
16 the Thibeaults’ counsel produce any communications with the three declarants in question (as JBB
17 has not had any such communications).¹ The issue appeared to be resolved as the State Court then
18 changed the subject and set a starting trial date of February 10, 2025. At the case management
19 conference, the Wage Claimants’ counsel never mentioned that they intended to effectively seek
20 to disqualify JBB and, instead, sought the earliest trial date possible. At the conclusion of the
21 hearing, the State Court stated that the case was not able to be tried earlier than February 10, 2025,
22 due to procedural and due process issues, but now that Kombu had counsel, the State Court was
23 looking forward to working with Mr. Tate and the other attorneys to get the case resolved. (Tate
24 Decl., ¶ 9.)

25
26 _____
27 ¹ The Thibeaults’ counsel produced 13 pages of documents on October 4, 2024, which consisted
28 only of the declarations themselves and the DocuSign confirmations for the execution of those
declarations. In other words, the document production showed that the Thibeaults’ counsel did not
have any substantive communications with any of the Subject Declarants. (Tate Decl., ¶ 9.)

1 On October 2, 2024, the very day after Mr. Tate specifically and emphatically stated in open
2 court that he did not represent the Subject Declarants, the Wage Claimants filed the Opposition.
3 The Opposition falsely argues that JBB represents the Subject Declarants. The Opposition fails to
4 mention Mr. Tate’s October 1, 2024 representation at the case management conference that JBB
5 was not representing any of the Subject Declarants. (Tate Decl., ¶ 10.)

6 Although there was a period of approximately a week where JBB believed that it would
7 represent three of the Subject Declarants, such representation never occurred. JBB never had any
8 direct contact with the Subject Declarants. The Subject Declarants never engaged JBB. When JBB
9 became aware that the Subject Declarants could be potential class members, JBB let it be known
10 that it would not (and could not) represent them. JBB did not consult with the Debtor’s bankruptcy
11 counsel, Weintraub Zolkin Talerico & Selth LLP (“WZTS”), regarding JBB’s possible
12 representation of the three Subject Declarants. Based upon discussions with WZTS that occurred
13 immediately following the filing of the Opposition, JBB fully understands that it must disclose to
14 this Court any circumstance in which it would represent any party other than Kombu in connection
15 with the litigation before the State Court. (Tate Decl., ¶ 11.)

16 **III. ARGUMENT**

17 **A. Legal Standard**

18 As cited in the Opposition, 11 USC §328(c) states:

19 (c) Except as provided in section 327(c), 327(e), or 1107(b) of this
20 title [11 USC § 327(c), 327(e), or 1107(b)], the court may deny
21 allowance of compensation for services and reimbursement of
22 expenses of a professional person employed under section 327 or
23 1103 of this title [11 USC § 327 or 1103] if, at any time during such
24 professional person’s employment under section 327 or 1103 of this
25 title [11 USC § 327 or 1103], such professional person is not a
disinterested person, or represents or holds an interest adverse to the
interest of the estate with respect to the matter on which such
professional person is employed.

26 The statute is permissive, providing that the Court “may” deny compensation for services
27 to a professional if the professional is not a disinterested person or if the professional holds an
28 interest adverse to the interest of the estate. Thus, 11 U.S.C. § 328(c) permits the Court to deny

1 compensation to professionals found not to be disinterested persons but does not require denial of
2 fees in those instances. *In re Easterday Ranches, Inc.* 647 B.R. 236, 246 (Bankr. E.D. Wash. 2022).

3 **B. The Present Circumstances Do Not Trigger Section 328(c)**

4 As described in detail above, no conflict of interest is present here. As such, Section 328(c)
5 is not implicated. For a period of a few days in late September, JBB believed that: (1) the Subject
6 Declarants were not class members; and (2) that JBB would represent the Subject Declarants in
7 connection with declarations that they signed prior to JBB's involvement. When, however, JBB
8 learned that the Subject Declarants were on a class list (one that JBB had never seen as it had been
9 prepared more than two years ago), JBB determined that it would **not** represent the Subject
10 Declarants. JBB never had any direct contact with the Subject Declarants. The Subject Declarants
11 never retained JBB. During the October 1 case management conference, in the presence of the
12 Wage Claimants' counsel, JBB explicitly represented to the State Court not only that it had not and
13 would not represent the Subject Declarants, but that JBB would not attempt to contact the Subject
14 Declarants, either directly or indirectly.

15 The Opposition has not been put forward in good faith. As officers of the Court, it was
16 incumbent upon counsel for the Wage Claimants to fully disclose to the Court what transpired
17 before the State Court a mere twenty-four hours before having filed the Opposition. Counsel for
18 the Wage Claimants instead chose to mislead this Court in an effort to get the proverbial second
19 bite at the apple. Having already failed to disqualify JBB as counsel before the State Court, they
20 now try to do so through this Court.²

21 **C. The Court Should Not Exercise its Discretion to Deny Compensation**

22 As explained above, JBB has never had a conflict in its representation of Kombu.
23 Consequently, there is no basis to deny or to reduce JBB's fees.

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27 ² Unfortunately, this is not the first occasion that counsel for the Wage Claimants has engaged in
28 misdirection of a court in this matter. *See, e.g., Opposition to Motion to Remove Debtor in Possession Pursuant to 11 U.S.C. Section 1185(a)* (Dkt. No. 266), 13:13-14:27.

1 The Wage Claimants seek to gain an upper hand against Kombu by attempting to prevent
2 Kombu from being represented by JBB in the State Court litigation. But there is no legitimate basis
3 upon which to disqualify JBB.

4 Nor is there a legitimate basis upon which to disallow any of the compensation sought in
5 the Application. “Because the denial of compensation and reimbursement of expenses after
6 services have been performed may be draconian and inherently unfair, this sanction should not be
7 rigidly applied in the absence of actual injury or prejudice to the debtor’s estate.” *In re Easterday*
8 *Ranches, Inc.*, 647 B.R. 236, 255 (Bankr. E.D. Wash. 2022) (quoting 3 Collier on Bankruptcy ¶
9 328.05[3] (16th ed. rev. 2022).) Here, there is no conflict and no evidence of injury or prejudice
10 to Kombu, its bankruptcy estate, or the Wage Claimants. Moreover, even, assuming *arguendo*,
11 there had been a conflict (there was not), to the extent that a sanction against JBB would be
12 appropriate (it is not), that sanction would only be appropriate to reduce fees during the small
13 window of time when the alleged conflict existed. See, e.g. *In re Nilhan Developers, LLC*, 2021
14 Bankr. LEXIS 1036, at *77–81 (Bankr. N.D. Ga. Apr. 19, 2021) (concluding that the appropriate
15 sanction under section 328(c) was a reduction of fees for the specific period during which a conflict
16 existed). The compensation being requested in the Application does not fall within that narrow
17 window.

18 **D. There is No Other Reason Why Compensation Should be Denied or Reduced**

19 The only other issue raised in the Opposition regarding JBB’s fee request is set forth in a
20 footnote in which the Wage Claimants suggest that JBB’s fees are excessive because JBB
21 supposedly spent too much time drafting motions and strategizing. This argument is without merit.
22 First, contrary to Wage Claimants’ suggestion, the 32.4 hours spent by JBB professionals on
23 “Pleadings/Motions” is not limited to the motion to reopen expert discovery. As disclosed in the
24 Application, JBB also spent time drafting motions for summary adjudication and analyzing motions
25 in limine that had already been filed in the State Court litigation. (Dkt. 291, p. 5.) Second, the 32.4
26 hours spent on “Litigation Strategy” was warranted given the procedural posture of the actions,
27 which have been pending for almost five years, and were fiercely litigated for much of that time. It
28 has been essential for JBB’s attorneys to talk with clients, co-counsel, bankruptcy counsel, and

1 with each other in order to get up to speed and to figure out how best to litigate the case on Kombu's
2 behalf. (Tate Decl., ¶ 12.)

3 **IV. CONCLUSION**

4 For the reasons set forth herein, the Court should grant the Application in full.
5

6 DATED: October 9, 2024

WEINTRAUB ZOLKIN TALERICO & SELTH LLP

8 By: /s/ David B. Zolkin

9 David B. Zolkin

10 Attorneys for KOMBU KITCHEN SF, LLC
11 Debtor and Debtor-in-Possession
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DECLARATION OF M. ADAM TATE

I, M. ADAM TATE, declare as follows:

1. I am an attorney licensed to practice law before all Courts in the State of California. I am a partner with the law firm of Julander, Brown & Bollard (“JBB”), attorneys of record for Defendant KOMBU KITCHEN SF, LLC (dba NIBLL) (“Kombu”) in the consolidated class actions brought by AJA DE COUDREAUX *et. al.* and MARIA DE JESUS VERGARA, *et al.* (collectively “Wage Claimants”). I have personal knowledge of the facts set forth herein, which are known to me to be true and correct, and if called upon to testify, I can and will competently testify thereto.

2. JBB was formally approved by this Court to be counsel for Kombu for purposes of defending the consolidated class actions on September 4, 2024. The other defendants in the consolidated class actions are Keven and Kristen Thibeault, who are represented by the attorneys at Garofolo & Ramsdell.

3. On September 5, 2024, the attorneys at Garofolo & Ramsdell filed two motions for summary adjudication on behalf of Keven and Kristen Thibeault. In support of the motions for summary adjudication, twelve of Kombu Kitchen’s managerial employees signed declarations. I have been informed that all twelve declarants are exempt employees, and it was believed that they are not members of the classes because only non-exempt employees are part of the classes. JBB was not in any way involved with obtaining these declarations or with talking to the twelve declarants.

4. After the filing of the motions, on September 20, 2024, Wage Claimants’ counsel inquired of Mr. Ramsdell whether they were permitted to interview the declarants. Deeply concerned that Wage Claimants’ counsel would attempt to harass and intimidate Kombu’s managerial employees, Kombu asked the declarants if they wanted to be represented by JBB to help them defend the statements made in their declarations. Kombu reasonably believed that this was proper inasmuch as all of the declarants were exempt employees, and Kombu’s principals were not aware of any apparent reason why the declarants could not be represented by JBB. All but one of the employees indicated that they wished to be represented. One of the employees did not immediately respond, but Kombu reasonably assumed that he would be responding likewise.

1 5. Based on the foregoing, on September 25, 2024, I informed Wage Claimants’
2 counsel that I represented the declarants. A true and correct copy of this email correspondence is
3 attached hereto as **Exhibit 1**. This email is the backbone of Wage Claimants’ opposition to the
4 instant application for compensation (the “Opposition”).

5 6. On September 30, 2024, Wage Claimants’ counsel filed a Supplemental Case
6 Management Conference Statement which generally accused the attorneys at Garofolo & Ramsdell
7 and my firm of improper conduct. A true and correct copy of the Supplemental Case Management
8 Conference Statement is attached hereto as **Exhibit 2**. Attached to the Supplemental Case
9 Management Conference Statement was a list of potential class members that was previously
10 prepared by the class administrators over two years ago. This list of class members included three
11 of the twelve declarants (the “Subject Declarants”). This was the first time that anyone at my firm
12 or Garofolo & Ramsdell (to my knowledge) had ever seen this class list, which was provided to the
13 Wage Claimants’ counsel well before either firm appeared in the actions. Prior to seeing the class
14 list, I had no reason to suspect that any of the currently-exempt employees were potentially class
15 members – let alone the Subject Declarants – the classes which have been certified are comprised
16 of non-exempt employees.

17 7. Up to this point (as well as thereafter), my firm had not had any direct contact with
18 the Subject Declarants. My firm was not involved with obtaining the declarations in support of the
19 motions for summary adjudication, and Kombu (not JBB) asked the Subject Declarants if they
20 wanted to be represented by JBB mere days before.

21 8. The parties attended a case management conference the following day on October 1,
22 2024. At the hearing, my co-counsel and I explained the situation to the State Court and that, having
23 being made aware that the Subject Declarants were on the class list, further explained that I was not
24 going to represent the Subject Declarants. Apparently dissatisfied with my explanation, the Wage
25 Claimants’ counsel specifically asked me if I continued to represent the Subject Declarants. In open
26 court I clearly and emphatically said that “***I do not and cannot represent any of the class members.***”
27 I also explicitly represented that I would not contact the Subject Declarants either directly or
28 indirectly.

1 9. To resolve the matter to the Wage Claimants' satisfaction, the State Court requested
2 that the Thibeaults' counsel produce any communications with the three declarants in question (as
3 JBB has not had any such communications).¹ I believed that the issue had been resolved as the State
4 Court then changed the subject and set a starting trial date of February 10, 2025. At the case
5 management conference, the Wage Claimants' counsel never mentioned that they intended to
6 effectively seek to disqualify JBB and, instead, sought the earliest trial date possible. At the
7 conclusion of the hearing, the State Court stated that the case was not able to be tried earlier than
8 February 10, 2025, due to procedural and due process issues, but now that Kombu had counsel, the
9 State Court was looking forward to working with me and the other attorneys to get the case resolved.

10 10. On October 2, 2024, the very next day after I specifically and emphatically stated in
11 open court that I did not represent the Subject Declarants, the Wage Claimants' attorneys filed their
12 Opposition to my firm's fee application for compensation, falsely arguing that JBB represents the
13 Subject Declarants.

14 11. Although there was a period of approximately one week where I believed that my
15 firm would be representing the three Subject Declarants, that representation never occurred. JBB
16 never had any direct contact with the Subject Declarants, and when I learned that the Subject
17 Declarants could potentially be class members, I agreed that JBB would not (and could not)
18 represent them. I did not consult with the Debtor's bankruptcy counsel, Weintraub Zolkin Talerico
19 & Selth LLP ("WZTS"), regarding JBB's possible representation of the three Subject Declarants.
20 Based upon discussions that I had with WZTS partner David Zolkin immediately following the
21 filing of the Opposition, I fully understand that I must disclose to the Bankruptcy Court any
22 circumstance in which my firm would represent any party other than Kombu in connection with the
23 litigation before the State Court.

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27 ¹ The Thibeaults' counsel later produced 13 pages of documents on October 4, 2024, which
28 consisted only of the declarations themselves and the DocuSign confirmations for the execution of
those declarations. In other words, the document production showed that the Thibeaults' counsel
also did not have any substantive communications with any of the Subject Declarants.

1 12. In a footnote contained in the Opposition, the Wage Claimants suggest that JBB's
2 fees are excessive because JBB supposedly spent too much time drafting motions and strategizing.
3 The argument is without merit. First, contrary to the Wage Claimants' suggestion, the 32.4 hours
4 spent by JBB professionals on "Pleadings/Motions" is not limited to the motion to reopen expert
5 discovery. As disclosed in the Application, JBB also spent time drafting motions for summary
6 adjudication and analyzing the motions in limine that had already been filed in the State Court
7 litigation. Second, the 32.4 hours spent on "Litigation Strategy" was warranted given the procedural
8 posture of the actions which have been pending for almost five years, and were fiercely litigated for
9 much of that time. It has been essential for JBB's attorneys to talk with clients, co-counsel,
10 bankruptcy counsel, and with each other in order to come up to speed and to figure out how best to
11 litigate the case.

12 I declare under the penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct. Executed on October 9, 2024, in Irvine, California.

14
15 By: 

16 M. ADAM TATE
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EXHIBIT 1

From: Adam Tate Adam@jbblaw.com
Subject: RE: Nybl Wage Claims - MSJ Witness Declarants
Date: September 25, 2024 at 3:46 PM
To: stan mallison stanm@themmlawfirm.com, Craig Ramsdell CRamsdell@garofololaw.com
Cc: Paul Pfeilschifter paul@workerrightsattorney.com, Cody Bolce cbolce@themmlawfirm.com

AT

I do.

-Adam

From: stan mallison <stanm@themmlawfirm.com>
Sent: Wednesday, September 25, 2024 3:46 PM
To: Craig Ramsdell <CRamsdell@garofololaw.com>
Cc: Paul Pfeilschifter <paul@workerrightsattorney.com>; Adam Tate <Adam@jbblaw.com>; Cody Bolce <cbolce@themmlawfirm.com>
Subject: Re: Nybl Wage Claims - MSJ Witness Declarants

Who represents them?

Stan Mallison
Mallison & Martinez
1939 Harrison Street, Suite 730
Oakland, CA 94612
(510) 832-9999

E SERVICE NOTICE: This email address may not be used for service of notices, pleadings or discovery. For approved email notice or service use enotices@themmlawfirm.com



On Sep 25, 2024, at 3:40 PM, Craig Ramsdell <CRamsdell@garofololaw.com> wrote:

Dear Paul,

The declarants named in your e-mail are represented by counsel. Please refer to Rule 4.2 of the California Rules of Professional Conduct, which governs attorneys' communications with a represented person.

If you have any questions, please let me know. Thank you.

Best regards,

Craig

Craig P. Ramsdell
Garofolo & Ramsdell, LLP
[3443 Golden Gate Way, Suite H](#)
[Lafayette, CA 94549](#)
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From: Paul Pfeilschifter <paul@workerrightsattorney.com>

Sent: Friday, September 20, 2024 2:52 PM

To: Craig Ramsdell <CRamsdell@garofololaw.com>

Cc: stan mallison <stanm@themmlawfirm.com>; Cody Bolce
<cbolce@themmlawfirm.com>

Subject: Nybll Wage Claims - MSJ Witness Declarants

Mr. Ramsdell,

We would like to interview the following declarants which were used in your MSJ:

Dontae Haggerty
Eduardo Rodriguez
EJ Estrella
Gabriella Bracamonte

Hever Mendez
Janett Mayoral
Mercedes Gleich
Miguel Tapia
Yolanda Lopez
Yadira Urbano

Your discovery responses mention many of these witnesses and assert that we should contact them through counsel. Do you have any basis for us not to contacting them directly about the fact of this case?

Regards,

Paul K. Pfeilschifter
769 Center Blvd.
Fairfax, CA 94930
844-WRK-LAWS
paul@workerrightsattorney.com

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EXHIBIT 2

1 STAN S. MALLISON (Bar No. 184191)
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2 HECTOR R. MARTINEZ (Bar No. 206336)
HectorM@TheMMLawFirm.com
3 CODY A. BOLCE (Bar No. 322725)
CBolce@TheMMLawFirm.com
4 MALLISON & MARTINEZ
1939 Harrison Street, Suite 730
5 Oakland, California 94549
Telephone: 510-832-9999
6 Facsimile: 510-832-1101

7 Attorneys for Plaintiffs *Vergara et al.*

8 Paul K. Pfeilschifter, Esq. (301463)
PFEILSCHIFTER LAW
9 769 Center Blvd. #111
Fairfax, CA 94930
10 Telephone: 415-966-2919
paul@workerrightsattorney.com
11

12 Attorney for Plaintiffs *Coudreaux et al.*

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF ALAMEDA**

15 MARIA DE JESUS VERGARA, PAHOLA
RAMOS, and ROBERTO REYES, on behalf of
16 themselves and all others similarly situated,

17 Plaintiffs,

18 vs.

19 KOMBU KITCHEN SF, LLC; KEVEN
THIBEAULT; KRISTEN N. THIBEAULT;
20 ALFONSO VENTURA; and DOES 1 through 20,

21 Defendants.
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Lead Case No. RG20058323
Consolidated Case No. RG20057449

**PLAINTIFFS' SUPPLEMENTAL CASE
MANAGEMENT CONFERENCE
STATEMENT**

Before the Honorable Michael M. Markman

Action Filed: March 6, 2020

1 AJA DE COUDREAUX, an individual; ZENA
2 EVANS, an individual; DAEUN HWANG, an
individual; VERA LOPEZ, an individual;
3 MYRIAH SIMS, an individual; and NICOLE
VASSALLO;

4 Plaintiffs,

5 vs.

6 KOMBU KITCHEN SF, LLC; KEVEN
THIBEAULT, and individual; KRISTEN
7 THIBEAULT, an individual; and DOES 1-20,

8 Defendants.
9

10 **PLAINTIFFS' SUPPLEMENTAL MANAGEMENT CONFERENCE STATEMENT**

11 Plaintiffs Maria De Jesus Vergara, Pahola Ramos, Roberto Reyes, Aja De Coudreaux, Zena
12 Evans, Daeun Hwang, Vera Lopez, Myriah Sims, and Nicole Vassallo ("Plaintiffs") submit the
13 following supplemental Case Management Conference Statement:

14 On December 14, 2022, Judge Brad Seligman certified three subclasses (meal period, rest
15 period, and reimbursement) in *Coudreaux et al. v. Kombu Kitchen SF, LLC et al.* (Case No.
16 RG20058323). A true and correct copy of this order is attached as **Exhibit 1**. On December 16,
17 2022 Judge Seligman certified a meal period subclass in *Vergara et al. v. Kombu Kitchen SF, LLC*
18 *et al.* (Case No. RG20057449). A true and correct copy of that order is attached as **Exhibit 2**.
19 Pursuant to court order, notice was sent to class members who were provided opportunity to opt-
20 out. Class members were identified by Kombu Kitchen SF, LLC based on its records. After the
21 notice period, Phoenix Settlement Administrators provided a list of all class members who did not
22 opt out and were thus members of the certified classes. A true and correct copy of the final non-opt
23 out class list is attached as **Exhibit 3**.

24 On September 5, 2024, Defendants Keven Thibeault and Kristen Thibeault filed motions for
25 summary adjudication in each case. Among the supporting documents, were declarations from
26 Dontae Haggerty, Hever Mendez, and Jannet Mayoral. True and correct copies of these declarations
27 are attached as **Exhibits 4-6**. Mr. Haggerty, Mr. Mendez, and Ms. Mayoral are each a member of
28 one or more of the certified classes as they received notice and did not opt out (see Exhibit 3). As

1 members of a certified class, they are represented by class counsel and it is therefore impermissible
2 for defense counsel to communicate directly with them. *Hernandez v. Vitamin Shoppe Indus., Inc.*,
3 174 Cal.App.4th 1441, 1460 (2009) (absent class members are parties represented by class counsel).
4 Upon review, class counsel discovered Craig P. Ramsdell, counsel for Kristen Thibeault and Keven
5 Thibeault, had also obtained and submitted a declaration from Ms. Mayoral in support of his clients'
6 motions to decertify the classes. That declaration, which was obtained in May 2024 after
7 certification, is attached as **Exhibit 7**.

8 On September 20, 2024, class counsel in the *Vergara* and *Coudreaux* actions each emailed
9 Mr. Ramsdell to the effect they intended to contact the declarants and asking whether there was any
10 reason they could not do so. Those emails are attached as **Exhibits 8-9**. Having not heard back,
11 class counsel called their client Mr. Haggerty who confirmed he was not represented by anyone
12 other than class counsel in this matter. Despite this, on September 25, 2024, Mr. Ramsdell and
13 Adam Tate, counsel for Kombu Kitchen SF, LLC emailed class counsel claiming Mr. Tate
14 represented Mr. Haggerty, Mr. Mendez, and Ms. Mayoral in this matter, despite the fact these three
15 individuals are members of a certified class represented by class counsel in this matter and adverse
16 to each of the Defendants, including Mr. Tate's client, Kombu Kitchen SF, LLC, and Mr. and Ms.
17 Thibeault. Those emails are attached as **Exhibits 10-11**.

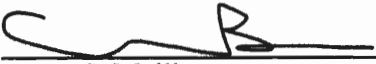
18 Because Mr. Haggerty was their client and said he was not represented by anyone other than
19 class counsel, they called Mr. Haggerty again on September 26, 2024, and he again confirmed he
20 was not represented by anyone other than class counsel in this matter. Mr. Haggerty provided the
21 declaration attached as **Exhibit 12**, in which he declares under penalty of perjury that he is not
22 represented by any person in these matters other than class counsel. He further states Kristen
23 Thibeault emailed him offering to have Kombu Kitchen SF, LLC's attorney represents him and that
24 he had not replied to that email. He further states Ms. Thibeault previously contacted him requesting
25 he sign a document, and that Mr. Ramsdell sent him an email with the document to sign. Because
26 Ms. Thibeault first contacted Mr. Haggerty, it appears Mr. Ramsdell attempted to circumvent the
27 rule against *ex parte* communication with represented parties by using his client as a conduit for
28 such improper communications.

1 By the conduct described above, Mr. Ramsdell engaged in improper *ex parte*
2 communication with a represented party without obtaining permission from plaintiffs' counsel. In so
3 doing, Mr. Ramsdell improperly interfered with class counsel's representation of their own clients
4 and obstructed the proceedings of this tribunal. Mr. Ramsdell also obtained evidence from Mr.
5 Haggerty adverse to Mr. Haggerty's interest as a class member without informing Mr. Haggerty of
6 the implication of providing this evidence.

7 Mr. Tate also dishonestly claimed he represented Mr. Haggerty and the other represented
8 class-member declarants to improperly prevent class counsel from speaking with their own clients,
9 who are likely to be key witnesses. If Mr. Tate does indeed represent the class members, he also has
10 a direct conflict and must therefore withdraw from the matter as counsel.

11
12 Dated: September 30, 2024

MALLISON & MARTINEZ

13
14 By: 
15 Stan S. Mallison
16 Hector R. Martinez
17 Cody A. Bolce
18 Attorneys for Plaintiffs Maria De Jesus
Vergara, Pahola Ramos, and Roberto
Reyes

19 Dated: September 30, 2024

PFEILSCHIEFTER LAW

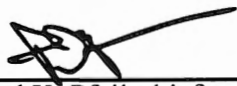
20
21 By: 
22 Paul K. Pfeilschifter
23 Attorneys for Creditors, Aja De
24 Coudreaux, Zena Evans, Daeun Hwang,
25 Vera Lopez, Myriah Sims, and Nicole
26 Vassallo
27
28

Exhibit 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Aja De Coudreaux et al
Plaintiff/Petitioner(s)

VS.

Kombu Kitchen SF, LLC et al
Defendant/Respondent(s)

No. RG20058323

Date: 12/14/2022

Time: 1:20 PM

Dept: 23

Judge: Brad Seligman

ORDER re: Ruling on Submitted Matter

The Motion for Class Certification filed by Vera Lopez, Daeun Hwang, Aja De Coudreaux, Nicole Vassallo, Myriah Sims, Zena Evans on 08/15/2022 is Granted.

The Court, having taken the matter under submission on 12/13/2022, now rules as follows:

Introduction

In this wage and hour case, plaintiffs seek to certify a class of non-exempt concierge employees who worked for Komba Kitchens SF, LLC (DBA Nybll), a catering and meal delivery service, from March 11, 2016 to present. Specifically, plaintiffs seek to certify the following subclasses: 1) Meal Period Subclass for employees denied meal periods; 2) Rest Period subclass for employees denied rest periods; and 3) Reimbursement subclass for employees who used their own cell phones for work purposes but were not reimbursed for that usage.

Plaintiffs support the motion with declarations from the named plaintiffs and from an expert who analyzed defendant's time records as well as depositions testimony of Keven and Kristen Thibeault, the co-owners of Komba Kitchens. Defendant opposes the motion, offering numerous employee and manager declarations, but not an opposing expert declaration.

Komba provides offsite catering and meal delivery services for its clients in Northern and Southern California. Concierge employees (also referred to as front of the house personnel) deliver and serve the food to clients. (Keven Thibeault dec. par. 5.) This work includes loading and unloading prepared food that is delivered to the client site, setting up and serving the food, breaking down the set up and loading and unloading the food on return to the Komba site. (Kristen Thibeault dec. par. 17.)

As explained below, the court will grant the motion and certifies the three subclasses.

Class Action Standards

The California Supreme Court has repeatedly enunciated the basic requirements for class certification. Expanding on the terse language of Code of Civil Procedure section 382 ("when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all"), the Court has explained that a party seeking class treatment must "demonstrate the existence of an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceedings as a class superior to the alternatives." (Brinker Restaurant Corp. v. Superior Court (2012) 53 Cal.4th 1004, 1021; Duran v. U.S. Bank Nat. Assn. (2014) 59 Cal.4th 1, 28; Sav-on Drug Stores, Inc. v. Superior Court (2004) 34 Cal.4th 319, 326.) The community-of-interest requirement embodies three factors: "(1) predominant common questions of law or fact; (2) class representatives with

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claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” (Brinker, *supra*, 53 Cal.4th at p. 1021.)

Thus, class certification depends in large part on whether the Plaintiffs have established that common issues will predominate in this action. Predominance of common issues is established where “the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.” (Collins v. Rocha (1972) 7 Cal.3d 232, 238, quoted by Brinker, *supra*, 53 Cal.4th at p. 1021.) This determination is “essentially a procedural one that does not ask whether an action is legally or factually meritorious.” (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 439–440.) While courts may have to consider the merits of legal issues that are enmeshed with class action requirements, a class certification motion “is not a license for a free-floating inquiry into the validity of the complaint’s allegations....” (Brinker, *supra*, at p. 1023.)

The determination of whether common issues predominate calls for a comparative analysis. (Sav-on, *supra*, 34 Cal.4th at p. 334.) The fact that some issues in a case may require individualized class-member-by-class-member analysis does not automatically preclude class certification.

“Individual issues do not render class certification inappropriate so long as such issues may be effectively managed.” (Richmond v. Dart Indus., Inc. (1981) 29 Cal.3d 462, 473.) Thus, the need for individualized adjudication of class member entitlement to and amount of damages does not necessarily preclude class certification. (Duran, *supra*, 59 Cal.4th at p. 28; Brinker, *supra*, 53 Cal.4th at pp. 1021–1022.) But common issues may not predominate if every member of the class must litigate “numerous and substantial questions determining his individual right to recover following the ‘class judgment’ on common issues.” (Duran, *supra*, at p. 28, quoting City of San Jose v. Superior Ct. (1974) 12 Cal.3d 447, 459.) Where there are individual issues, the court must consider whether class treatment is manageable. (Duran, *supra*, at p. 29 [court must “conclude that litigation of individual issues, including those arising from affirmative defenses, can be managed fairly and efficiently”].) In managing class actions, courts are obliged to “consider the use of innovative procedural tools proposed by a party to certify a manageable class.” (Osborne v. Subaru of Am., Inc. (1988) 198 Cal.App.3d 646, 653, quoted by Sav-on, *supra*, at p. 339.)

The starting point in determining whether common issues predominate is whether “the theory of recovery advanced by the proponents of class certification is, as an analytic matter, likely to prove amenable to class treatment.” (Sav-on, *supra*, 34 Cal.4th at p. 327; see also Brinker, *supra*, 53 Cal.4th at p. 1025 [“a trial court must examine the plaintiff’s theory of recovery, assess the nature of the legal and factual disputes likely to be presented, and decide whether individual or common issues predominate”].)

California public policy “encourages the use of the class action device.” (Sav-on, *supra*, 34 Cal.4th at p. 340, quoting Richmond, *supra*, 29 Cal.3d at p. 473.) In a case based on asserted Labor Code or Wage Order violations, there is likewise a clear public policy “directed at enforcement of California’s wage and overtime laws for the benefit of workers.” (Sav-on, *supra*, at p. 340, quoting Earley v. Superior Court (2000) 79 Cal.App.4th 1420, 1429–1430.)

Thus, at first blush, a claim that a defendant’s uniform policy violates Wage Order requirements is “by its nature a common question eminently suited to class treatment.” (Brinker, *supra*, 53 Cal.4th at p. 1033.) Nevertheless, while all class cases must meet class certification standards, “class wide relief remains the preferred method of resolving wage and hour claims, even those in which the facts appear to present difficult issues of proof.” (Martinez v. Joe’s Crab Shack Holdings (2014) 231 Cal.App.4th 362, 384, as modified on denial of reh’g (Dec. 3, 2014).)

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The typicality requirement looks at the named plaintiffs' claims to determine if the claims of the plaintiffs align with those of the class:

The test of typicality "is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct." [Citations.] A class representative who does not have a claim against the defendants cannot satisfy the typicality requirement. (Martinez, supra, 231 Cal.App.4th at p. 375.) A plaintiff may be untypical only where there are "unique defenses" to his or her claims that may "distract the class representative from common issues." (Fireside Bank v. Superior Court (2007) 40 Cal.4th 1069, 1090–1091.) Ultimately, "the relevant inquiry is whether, and to what extent, the proffered defenses are 'likely to become a major focus of the litigation.'" (Id. at 1091 (citations omitted).)

Adequacy of representation is closely aligned to typicality and ultimately tests whether there are conflicts of interest between the plaintiffs and the class they seek to represent. (Capitol People First v. State Dept. of Developmental Servs. (2007) 155 Cal.App.4th 676, 697.)

Ascertainable and Numerous Class

There is no question that defendant's payroll and time records identify concierge employees during the relevant time period. There is also no dispute that the time records are accurate. Records reviewed by plaintiffs' expert for the period from 2018 through mid-2020 identify 160 front of the house (concierge) employees who worked during this period. (Woolfson Dec. par. 38.) These records also document that most of these employees had shifts greater than 5 hours or six hours, and, as discussed below, a very high portion of these employees had missed, short or late meal breaks. (Id.) The records also document that 158 concierge employees had shifts greater than 3 and ½ hours. (Id., par. 39.) Defendants do not dispute this data but argue that the data does not establish the factual basis for the claims. Defendants conflate the questions of whether class members may be ascertained from defendant's records with the merits of their claims.

Defendants note, however, that plaintiffs have offered no evidence regarding the number of putative class members denied expense reimbursement. As discussed below, there is no dispute that employees were required to use a phone application in their duties. The parties dispute whether Komba offered employees company phones. But for purposes of ascertainability, it is sufficient if the class is identified in objective terms and class members can self-identify based on those terms. (Noel v. Thrifty Payless, Inc. (2019) 7 Cal.5th 955, 980.) The court concludes that the class definitions allow such self-identification.

Commonality Analysis

Meal Period Claim

There is no dispute that defendant had written meal break policies that applied at all of its locations. (Kristen Thibeault dec. par. 20 and exh. G & H thereto.) There is likewise no claim that the policy was facially illegal. Rather, plaintiffs assert that they were required to be available at all times of the day and not allowed meal or rest breaks. (Declarations of plaintiff Coudreaux, Evans, Hwang, Lopez, Sims and Vassallo.) Plaintiffs' testimony is supported by statistical evidence that their time records reflect missed or non-compliant meal breaks. (Woolfson Decl. par. 42.) For the proposed class as a whole, as discussed below, plaintiffs' expert documented a statistical pattern of noncompliance with the policy and California law. Plaintiffs also cite a Komba Employee Conduct Policy that appears to bar concierge employees from consuming food or beverages (other than a water bottle brought by the employee) on site "before service, during service, after service...." (Pfeilschifter dec., exh. 5.) While defendant asserts this latter policy only applies to consumption of client's food and beverages (Kristen Thibeault dec. par. 3),

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nothing on the face of this policy so states.

California requires an employer to provide a 30-minute meal period to employees no later than the end of the employee's fifth hour of work and a second meal period no later than the tenth hour of work, absent waiver. (Brinker, supra, 53 Cal.4th p. 1041.) The employer satisfies this duty if it relieves the employee of all duty during this break, allows an uninterrupted break and does not discourage employees from taking it. (Id. at p. 1040.) The failure to provide a compliant break entitles the employee to one hour of "premium" pay. The obligation to pay premium pay applies to any non-compliant, i.e., missed, shortened, or interrupted breaks. (Donohue v. AMN Services, L.L.C. (2021) 11 Cal.5th 58, 69.) Even a "minor infringement" of a meal period triggers the premium pay obligation. (Id. at p. 68.) The employee is not required to request a premium; the employee is "immediately" entitled to the premium, absent a waiver of the break. (Safeway, Inc. v. Superior Court (2015) 238 Cal.App.4th 1138, 1155-1156 & n.5).

Plaintiffs' expert reviewed the time records and found a very high rate of non-compliant (missed, late or short) meal breaks. He found that there was an overall 98.2% non-compliance rate for shifts over 5 hours, and an 86% rate for shifts greater than 6 hours. (Woolfson dec. par. 38 at p. 16.) He found no evidence that a meal period premium (or a rest break premium) had ever been paid (Id. at par. 40), a finding confirmed by co-owner Kristen Thibeault. (Depo. at p. 83, Ex. 1 to Pfeilschifter dec.)

Defendant does not dispute this statistical evidence, nor does it offer its own counter-analysis. (Defendant's Opposition brief at p. 13.) Rather, it argues that this data does not establish a meal period violation since it does not show whether class members were offered compliant meal period and chose not to take them.

The data shows widespread non-compliant meal breaks and thus raises a rebuttable presumption of illegality. (Donohue, supra, 11 Cal.5th at p. 77.) "Employers can rebut the presumption by presenting evidence that employees were compensated for noncompliant meal periods or that they had in fact been provided compliant meal periods during which they chose to work." (Ibid.) This presumption of meal break violations minimizes the number of potentially unwieldy individualized issues and shows "the facts necessary to establish liability are capable of common proof." (Safeway, Inc., supra, 238 Cal.App.4th at p. 1160.)

Defendant does not offer any systematic, admissible evidence that employees waived compliant meal periods. Nor does defendant offer a survey or representative sample of employee testimony to rebut the presumption. (Donohue, supra, at p. 77.) Instead, it offers the declaration of its principals that state they saw employees take meal and rest breaks and never discouraged this. (Keven Thibeault dec. pars 9, 11; Kristen Thibeault dec. pars. 24-27.) While Kristen Thibeault asserts that defendant provides newly hired employees a meal period waiver form to waive meal periods for shifts of less than 6 hours and claims a "vast majority" of employees executed such forms, defendant has not located or produced most of these forms. (Id., par. 21, and exh. K.) No such forms have been produced for any concierge employee. (Pfeilschifter dec. par. 5.) The absence of written waivers is significant since Komba's policies require a written request and employer approval to waive a meal break. (Kristen Thibeault dec. exhs. G & H.) Moreover, even if such waivers existed, the waiver form cited by Ms. Thibeault is for waiver of meals between 5 and 6 hours. Plaintiffs' expert found widespread non-compliance for shifts of more than 6 hours. (Woolfson dec. par. 38 at p. 16, 18.)

Defendants also rely on 19 employee and manager declarations and 2 declarations from clients, attesting to employees who have taken rest and meal breaks. Many of the employee declarations are from current employees. All of these employees' declarations were signed during this litigation, after the motion for class certification was filed. There is no explanation of how these

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Rene C. Davidson Courthouse

declarations were solicited, or whether they are a representative sample of employees. There is also no explanation of what admonishments or disclosures were made to the employees or whether they were informed that the defendant might have an interest adverse to the employees as putative class members. Without such explanation, the court looks upon these declarations with suspicion. (Cf. *Brown v. Upside Gading, LP* (2019) 42 Cal.App.5th 140, 145; *Barriga v. 99 Cents Only Stores LLC* (2020) 51 Cal.App.5th 299, 336.) In fact, one declarant, offered by plaintiffs on reply, describes how she was contacted, and attaches email and text messages from Kristen Thibeault. The messages ask her to sign a declaration similar to those filed in this case and refer to the plaintiffs' claims as "a lot of lies." (Dec. of Ruby Rew.) Rew refused to provide the requested declaration and instead provided a declaration to plaintiffs that is consistent with their claims. (Id.)

Compounding the suspect nature of these declarations, most of defendant's declarants are not reflected in company time and payroll records produced to plaintiffs. (Woolfson reply decl. par. 4-5.) Woolfson identified time records regarding 5 of these declarants and their records reflected non-compliant meal breaks. (Id., pars. 6-11.)

Defendant's declarations do not establish that individual issues will predominate since these declarations do not rebut the Donohue presumption. It was defendant's burden to show individual issues will predominate once the presumption is raised. (*Estrada v. Royalty Carpet Mills, Inc.* (2022) 76 Cal.App.5th 685, 723-724, review granted on PAGA issue but case not depublished, (June 22, 2022) 11 P.3d 191; see also *Brinker, supra*, 53 Cal.4th at p. 1053 (J. Werdegar, concurring) ["the assertion [that the employer relieved employee of duty but the employee waived the break] is an affirmative defense, and thus the burden is on the employer, as the party asserting waiver, to plead and prove it. [Citations.]"].) This it has failed to do.

Moreover, the fact that some employees, including plaintiffs, may have taken breaks does not rebut the showing of systemic lack of compliance. "[A]necdotal evidence that some employees had valid off-duty rest breaks does not preclude class certification; rather, it is evidence that is relevant to damages." (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 956; see also *Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 408.)

The court concludes plaintiffs have established that common issues will predominate for the meal period subclass.

Rest Period Subclass

Employees working over 3.5 hours on a shift are entitled to a rest break of 10 minutes. (IWC Wage Order 5-2001, sec. 12(A).) As construed by the California Supreme Court, the wage order requires a 10 minute rest break for shifts from 3 and ½ hours to 6 hours in length, 20 minutes for shifts of more than 6 hours up to 10 hours, and 30 minutes for longer shifts. (*Brinker, supra*, 53 Cal.4th at p. 1029.) There is no dispute that defendant's written rest break policy is compliant with this. (Ex. G, H to Kristen Thibeault dec.) Defendant's declarants, particularly the Thibaults, assert compliance with this policy in practice. Plaintiffs assert, to the contrary, that there was a practice to deny rest breaks. Unlike the meal break claim, there is no electronic data showing rest breaks. If all the court were faced with were dueling declarations, it would not find that plaintiffs have sustained their burden of showing common issues predominate. Anecdotal evidence of a "handful of individual instances" hardly amounts to "substantial evidence of a systematic company policy to pressure or require employees to work off-the-clock." (*Brinker, supra*, at p. 1051-52.)

But plaintiffs cite several policies and practices to buttress their claims. First, as noted above, defendant has never paid a break premium, despite thousands of shifts where a break would

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otherwise be required. There is no written evidence of any requests to waive such breaks either. In addition, plaintiffs cite a conduct policy, discussed above, that appears to bar concierges from eating or even drinking while on client sites. (Pfeilschifter dec., Exh. 5.) The same policy discourages restroom breaks at client sites. This policy should be read in conjunction with Kirsten Thibeault's admission that food-serving time at client sites takes up to 90 minutes. (Kristen Thibeault dec. par. 18, 31.) She does not account for loading and travel time between Komba offices and client locations, but states that unloading and set-up typically takes 15-30 minutes, leaving 45 minutes before the meal service. (Id., par. 18.) She does not account for re-loading and return travel. The total time serving client locations appears likely to often exceed 3.5 hours. Plaintiffs also point out that they are required to have various applications on their phones and be available to respond to them while off-site. (Plaintiff decl.; Pfeilschifter dec., exh. 1 at 116:5-13; 117:16-118:5; exh. 7.)

The court concludes that plaintiffs have shown that common issues predominate regarding rest breaks.

Reimbursement Subclass

Labor Code 2802(a) requires an employer to indemnify employees for "all necessary expenditures...incurred by the employee in direct consequence of his or her duties." Plaintiffs do not identify any noncompliant business expense reimbursement policy. Defendant has a policy that requires approval of expenses for which reimbursement is sought. (Kristen Thibeault dec. par. 33 and exh. L-M thereto.) Plaintiffs declare they were required to use their phones to download various applications and to respond to text messages. Defendants do not dispute that phone use was required for the job, or that the applications had to be used. (Keven Thibeault dec. par.16; Kristen Thibeault dec. pars. 34, 36.)

The real dispute is whether employees were given the option of using a company device, as the Thibeaults declare (Keven Thibeault decl. par. 16; Kristen Thibeault dec. par. 34) or not, as the plaintiffs claim. The court finds it significant that none of defendants' other declarants note the availability of company phones and tablets, nor is any written policy regarding this identified. The failure of defense declarants to note the option of using company phone must be viewed in conjunction with the reply declaration of Ruby Rew, who attached texts and emails from Kristen Thibeault asking her support of the company claim that "we offered tablet/phones to do work on client sites...." Rew refused to so declare and in fact supported plaintiffs' claim. (Rew Decl. par. 11 and Exh. A & B thereto.) Under Evidence Code 412, where a party offers weaker evidence when it was within its power to offer stronger evidence, the evidence offered "should be viewed with distrust."

The overriding common question is whether there was a policy of offering company phones or tablets. Thus plaintiffs have establish a predominate common issue.

Typicality and Adequacy Analysis

Defendant challenges plaintiffs' typicality largely by rehashing its fact-based arguments regarding commonality. It offers no claim of inadequacy.

Defendant has not shown plaintiffs are untypical or inadequate.

Superiority and Trial Plan

The court finds that class resolution is a superior manner of proceeding, particularly where numerous members of the class are still employed by defendant. The alternative to a class is either a multitude of individual actions (Sav-On Drugs, supra, 34 Cal.4th at p. 399) or no remedy

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Rene C. Davidson Courthouse

for class members.

Defendants point out that plaintiffs have not submitted a trial plan, citing the case of *Duran v. U.S. Bank Nat. Assn.* (2014) 59 Cal. 4th 1. Plaintiffs state they rely on their expert Woolfson to analyze defendant's data and intend to retain an expert to conduct random sampling of employees. This latter point is raised in reply and is not well developed. *Duran* was a misclassification case that rested - and fell - on an invalid statistical sample. The court explained that if "statistical evidence will comprise part of the proof of class action claims," then "trial courts would be well advised to obtain such a plan before deciding to certify a class action." (Id. at p. 32.) *Duran* doesn't mandate a trial plan in all cases at the class certification stage, and here, where there is a record keeping obligation and a rebuttable presumption, the lack of a formal trial plan at the class certification stage is not a basis to deny certification if the court concludes the trial would be manageable. In any event, the court retains the authority to decertify the class if a trial plan proves unworkable. (*Duran*, supra, at p. 32.)

Conclusion

The court accordingly certifies the subclasses. The parties are ordered to meet and confer on a class notice plan and to file and email to the department clerk a joint statement, listing agreements and disputes, no later than January 3, 2023. The court sets a Case Management Conference to address this issue and any others the parties wish to raise, on January 13, 2023 at 9:30 am.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Dated: 12/14/2022



Brad Seligman / Judge

Exhibit 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Ma De Jesus Vergara et al
Plaintiff/Petitioner(s)
VS.
Kombu Kitchen SF, LLC et al
Defendant/Respondent(s)

No. RG20057449

Date: 12/06/2022
Time: 3:00 PM
Dept: 23
Judge: Brad Seligman

ORDER re: Hearing on Motion - Other
Motion for Class Certification

The Motion for Class Certification filed by Pahola Ramos, Roberto Reyes, Ma De Jesus Vergara on 08/15/2022 is Granted in Part.

Introduction

In this wage and hour case, plaintiffs seek to certify a class of non-exempt kitchen employees (also referred to as “back-of-the-house” employees) who worked for Komba Kitchen, a catering and meal delivery service with numerous commercial kitchens in Northern and Southern California, from March 6, 2016 to present. Specifically, plaintiffs seek to certify the following subclasses: 1) Meal Period Subclass for employees who have short, late or no meal periods reflected in their records; 2) Reimbursement subclass for employees who were not reimbursed for kitchen equipment they purchased and used in their jobs; 3) Rest Period subclass for employees who worked more than 3.5 hours in a shift; and 4) Unpaid time subclass for employees not paid for all time worked.

Plaintiffs support the motion with declarations from the named plaintiffs and from an expert who analyzed defendant’s time records. Defendant opposes the motion, offering numerous employee and manager declarations, but not an opposing expert declaration.

As explained below, the court will grant the motion in part, and certifies the Meal Period subclass only.

Class Action Standards

The California Supreme Court has repeatedly enunciated the basic requirements for class certification. Expanding on the terse language of Code of Civil Procedure section 382 (“when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all”), the Court has explained that a party seeking class treatment must “demonstrate the existence of an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceedings as a class superior to the alternatives.” (Brinker Restaurant Corp. v. Superior Court (2012) 53 Cal.4th 1004, 1021; Duran v. U.S. Bank Nat. Assn. (2014) 59 Cal.4th 1, 28; Sav-on Drug Stores, Inc. v. Superior Court (2004) 34 Cal.4th 319, 326.) The community-of-interest requirement embodies three factors: “(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” (Brinker, supra, 53 Cal.4th at p. 1021.)

Thus, class certification depends in large part on whether the Plaintiffs have established that

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common issues will predominate in this action. Predominance of common issues is established where “the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.” (Collins v. Rocha (1972) 7 Cal.3d 232, 238, quoted by Brinker, supra, 53 Cal.4th at p. 1021.) This determination is “essentially a procedural one that does not ask whether an action is legally or factually meritorious.” (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 439–440.) While courts may have to consider the merits of legal issues that are enmeshed with class action requirements, a class certification motion “is not a license for a free-floating inquiry into the validity of the complaint’s allegations....” (Brinker, supra, at p. 1023.)

The determination of whether common issues predominate calls for a comparative analysis. (Savon, supra, 34 Cal.4th at p. 334.) The fact that some issues in a case may require individualized class-member-by-class-member analysis does not automatically preclude class certification. “Individual issues do not render class certification inappropriate so long as such issues may be effectively managed.” (Richmond v. Dart Indus., Inc. (1981) 29 Cal.3d 462, 473.) Thus, the need for individualized adjudication of class member entitlement to and amount of damages does not necessarily preclude class certification. (Duran, supra, 59 Cal.4th at p. 28; Brinker, supra, 53 Cal.4th at pp. 1021–1022.) But common issues may not predominate if every member of the class must litigate “numerous and substantial questions determining his individual right to recover following the ‘class judgment’ on common issues.” (Duran, supra, at p. 389, quoting City of San Jose v. Superior Ct. (1974) 12 Cal.3d 447, 459.) Where there are individual issues, the court must consider whether class treatment is manageable. (Duran, supra, at p. 29 [court must “conclude that litigation of individual issues, including those arising from affirmative defenses, can be managed fairly and efficiently”].) In managing class actions, courts are obliged to “consider the use of innovative procedural tools proposed by a party to certify a manageable class.” (Osborne v. Subaru of Am., Inc. (1988) 198 Cal.App.3d 646, 653, quoted by Savon, supra, at p. 339.)

The starting point in determining whether common issues predominate is whether “the theory of recovery advanced by the proponents of class certification is, as an analytic matter, likely to prove amenable to class treatment.” (Savon, supra, 34 Cal.4th at p. 327; see also Brinker, supra, 53 Cal.4th at p. 1025 [“a trial court must examine the plaintiff’s theory of recovery, assess the nature of the legal and factual disputes likely to be presented, and decide whether individual or common issues predominate”].)

California public policy “encourages the use of the class action device.” (Savon, supra, 34 Cal.4th at p. 340, quoting Richmond, supra, 29 Cal. 3d at p. 473.) In a case based on asserted Labor Code or Wage Order violations, there is likewise a clear public policy “directed at enforcement of California’s wage and overtime laws for the benefit of workers.” (Savon, supra, at p. 340, quoting Earley v. Superior Court (2000) 79 Cal.App.4th 1420, 1429–1430.)

Thus, at first blush, a claim that a defendant’s uniform policy violates Wage Order requirements is “by its nature a common question eminently suited to class treatment.” (Brinker, supra, 53 Cal.4th at p. 1033.) Nevertheless, while all class cases must meet class certification standards, “class wide relief remains the preferred method of resolving wage and hour claims, even those in which the facts appear to present difficult issues of proof.” (Martinez v. Joe’s Crab Shack Holdings (2014) 231 Cal.App.4th 362, 384, as modified on denial of reh’g (Dec. 3, 2014).)

The typicality requirement looks at the named plaintiffs’ claims to determine if the claims of the plaintiffs align with those of the class:

The test of typicality “is whether other members have the same or similar injury, whether the

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action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct. [Citations.] A class representative who does not have a claim against the defendants cannot satisfy the typicality requirement. (Martinez, supra, 231 Cal.App.4th at p. 375.) A plaintiff may be untypical only where there are “unique defenses” to his or her claims that may “distract the class representative from common issues.” (Fireside Bank v. Superior Court (2007) 40 Cal.4th 1069, 1090–1091.) Ultimately, “the relevant inquiry is whether, and to what extent, the proffered defenses are ‘likely to become a major focus of the litigation.’” (Id. at 1091 (citations omitted).)

Adequacy of representation is closely aligned to typicality and ultimately tests whether there are conflicts of interest between the plaintiffs and the class they seek to represent. (Capital People First v. State Dept. of Developmental Servs. (2007) 155 Cal.App.4th 676, 697.)

Ascertainable and Numerous Class

There is no question that defendant’s payroll and time records identify kitchen employees during the relevant time period. Records for the period from 2018 through mid-2020 identify 126 kitchen employees who worked during this period. (Woolfson Dec. par. 29.) Defendant does not dispute this but argues that the data does not establish the factual basis for the claims. Defendant conflates the questions of whether class members may be ascertained from defendant’s records with the merits of their claims. Moreover, with regard to the meal period claim, as discussed below, Woolfson documents a high number of missed, short or late meal breaks for these employees. He also identifies a high number of rest period eligible shifts for these 126 employees. (Id. at par.39.) Defendant notes, however, that plaintiff has offered no evidence regarding the number of putative class members denied expense reimbursement or denied pay for off-the-clock work, nor any means of identifying these employees. As discussed below, there are serious commonality and manageability issues with such claims. But for purposes of ascertainability, it is sufficient if the class is identified in objective terms and class members can self-identify based on those terms. (Noel v. Thrifty Payless, Inc. (2019) 7 Cal.5th 955, 980.)

Commonality Analysis

Meal Period Claim

There is no dispute that defendant had written meal break policies that applied at all of its locations. There is likewise no claim that the policy was facially illegal. Rather, plaintiffs assert that there was a statistical pattern of noncompliance with the policy and California law. California requires an employer to provide a 30-minute meal period to employees no later than the end of the employee’s fifth hour of work and a second meal period no later than the tenth hour of work, absent waiver. (Brinker, supra, 53 Cal.4th p. 1041.) The employer satisfies this duty if it relieves the employee of all duty during this break, allows an uninterrupted break and does not discourage employees from taking it. (Id. at p. 1040.) The failure to provide a compliant break entitles the employee to one hour of “premium” pay. The obligation to pay premium pay applies to any non-compliant, i.e., missed, shortened, or interrupted breaks. (Donahue v. AMN Services, L.L.C. (2021) 11 Cal.5th 58, 69.) Even a “minor infringement” of a meal period triggers the premium pay obligation. (Id. at p. 68.) The employee is not required to request a premium; the employee is “immediately” entitled to the premium, absent a waiver of the break. (Safeway, Inc. v. Superior Court (2015) 238 Cal.App.4th 1138, 1155-1156 & n.5). Plaintiffs’ expert reviewed the time records and found a very high rate of non-compliant (missed, late or short) meal breaks. Thus he found that there was an overall 74.1% non-compliance rate for shifts over 5 hours, and the rate increased to 74.3% if limited to shifts greater than 6 hours. (Woolfson dec. par. 38 p.16.) He also found that over 95% of the employees working 5 hour or more had experienced a non-compliant shift, a rate slightly reduced to 95.1% if limited to

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employees who worked a shift greater than 6 hours. (Id. at p. 18.) He found no evidence that a meal period premium had ever been paid. (Id. at par. 40.)

Defendant does not dispute this statistical evidence, nor does it offer its own counter-analysis. (Defendant's Opposition brief at p. 10, 14-15.) Rather, it argues that this data does not establish a meal period violation since it does not show whether class members were offered compliant meal period and chose not to take them.

The data shows widespread non-compliant meal breaks and thus raises a rebuttable presumption of illegality. (*Donahue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 77.) "Employers can rebut the presumption by presenting evidence that employees were compensated for noncompliant meal periods or that they had in fact been provided compliant meal periods during which they chose to work." (Ibid.) This presumption of meal break violations minimizes the number of potentially unwieldy individualized issues and shows "the facts necessary to establish liability are capable of common proof." (*Safeway, Inc.*, supra, at p.1160.)

Defendant does not offer any systematic, admissible evidence that employees waived compliant meal periods. Nor does defendant offer a survey or representative sample of employee testimony to rebut the presumption. (*Donahue*, supra, p. 77.) Instead, it offers the declaration of its principals that state they never saw employees get interrupted in their meal periods and denied employees were discouraged from taking such meal periods. (Keven Thibeault dec. pars 9, 11; Kristen Thibeault dec. pars. 17, 20.) While Kristen Thibeault asserts that defendant provides newly hired employees a meal period waiver form to waive meal periods for shifts of less than 6 hours and claims a "vast majority" of employees executed such forms, defendant has not located or produced most of these forms. (Id., par. 16.) Moreover, even if such waivers existed, the waiver is only for shifts of less than 6 hours. Plaintiffs' expert found widespread non-compliance for shifts of more than 6 hours. (Woolfson dec. par. 38 at p. 16, 18.)

Defendant also relies on 37 employee and manager declarations. Nine of these declarations are from managers and officers of defendant. As an initial matter, the court notes that aside from the Thibeault declarations, other than statements about dates of employment and location, these declarations are virtually identical, what some might call "cookie-cutter" declarations. Of the 26 employee declarations, the vast majority are recently hired employees (20 hired in 2022, 2 in 2021, and 1 in 2020). All of these employees are current employees and their declarations were all signed during this litigation, after the motion for class certification was filed. There is no explanation of how these declarations were solicited, or whether they are a representative sample of employees. There is also no explanation of what admonishments or disclosures were made to the employees or whether they were informed that the defendant might have an interest adverse to the employees as putative class members. Without such explanation, the court looks upon these declarations with suspicion. (Cf. *Brown v. Upside Gading, LP* (2019) 42 Cal.App.5th 140, 145; *Barriga v. 99 Cents Only Stores LLC* (2020) 51 Cal.App.5th 299, 336.)

Compounding the suspect nature of these declarations, defendant apparently failed to produce contact information for the employees, and the vast majority of defendant's declarants are not reflected in company time and payroll records produced to plaintiffs. (Malison reply dec. par.4-5; Woolfson reply decl. par.4-5.) Woolfson identified data regarding 3 of the 37 declarants and their records reflected non-compliant meal breaks. (Id., pars. 6-8.)

Defendant's declarations do not establish that individual issues will predominate since these declarations do not rebut the *Donahue* presumption. It was defendant's burden to show individual issues will predominate once the presumption is raised. (*Estrada v. Royalty Carpet Mills, Inc.* (2022) 76 Cal.App.5th 685, 723-724, review granted on PAGA issue but case not depublished, (June 22, 2022) 11 P.3d 191.) This it has failed to do. The court concludes plaintiff

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has established that common issues will predominate for the meal period subclass.

Reimbursement Subclass

Labor Code 2802(a) requires an employer to indemnify employees for “all necessary expenditures...incurred by the employee in direct consequence of his or her duties.” Plaintiffs do not identify any noncompliant business expense reimbursement policy. Defendant has a policy that requires approval of expenses for which reimbursement is sought. (Kristen Thibeault dec. par. 28 and exh. K-L thereto.) Rather, based solely on declarations of the plaintiffs, they assert that the class was denied reimbursement for kitchen utensils they purchased. The declarations of the three plaintiffs do not state that they sought reimbursement for the purchases and, other than the Vergara declaration, do not identify the source of any policy requiring purchase of equipment. Vergara identifies only her direct supervisor, Veronica, as a source of this requirement. (Vergara decl. par. 17.)

Defendant’s declarants, and specifically Kristen Thibeault, the Chief Culinary Officer of defendant, deny there is any requirement that employees provide for their own equipment. Further, she states kitchens are well stocked with equipment. She does acknowledge that in the industry, some chefs choose to use their own set of knives, but this is not required at Komba Kitchens. (Kristen Thibeault dec. par.27-30.)

Plaintiffs have failed to establish a common policy. At best, they show that they believe they were required to purchase utensils, but do not show this is a common practice of Komba Kitchens. They also do not show that they were denied reimbursement. They do not identify any records to show these expenses nor do they offer any way, short of polling every employee, of determining who had unreimbursed expenses.

Thus plaintiffs fail to establish commonality of the reimbursement subclass.

Rest Period Subclass

Employees working over 3.5 hours on a shift are entitled to a rest break of 10 minutes. (IWC Wage Order 5-2001, sec. 12(A).) As construed by the California Supreme Court, the wage order requires a 10 minute rest break for shifts from 3 and ½ hours to 6 hours in length, and 20 minutes for shifts of more than 6 hours up to 10 hours and 30 minutes for longer shifts. (Brinker, supra, 53 Cal.4th at 1029.) There is no dispute that defendant’s written rest break policy is compliant with this. (Ex. D-G to Kristen Thibeault dec.) Defendant’s declarants, particularly the Thibaults, assert compliance with this policy. Plaintiffs assert, to the contrary, that there was a policy to deny rest breaks. (Plaintiffs’ Opening brief at p. 19.) But, aside from the declarations of the named plaintiffs, they offer no evidence to support this claim. Further, there is no payroll or time keeping data that shows whether breaks were taken since such breaks are not recorded. (Woolfson dec. p.11 n.14.)

Plaintiffs have failed to establish a common policy.

Unpaid Time Subclass

Finally, plaintiffs assert the class was not paid for various off-the-clock activities. Again, plaintiffs rely solely on the declaration of the named plaintiffs in the face of compliant written policies and counter declarations of defendant. Plaintiffs again cite no statistical or written records to support this claim. At best, plaintiffs present “anecdotal evidence of a handful of individual instances” of off the clock work. This hardly amounts to “substantial evidence of a systematic company policy to pressure or require employees to work off-the-clock.” (Brinker, supra, at p. 1051-52.)

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Typicality and Adequacy Analysis

Defendant challenges plaintiffs' typicality largely by rehashing its fact-based arguments regarding commonality. Plaintiffs submit evidence that plaintiffs also had non-compliant meal breaks. (Woolfson dec. par. 42.) Defendant argues that plaintiff Vergara is an inadequate representative because she filed claims with the NLRB and the EEOC. The claims are not described, and apparently have been abandoned.

Defendant has not shown plaintiffs are untypical or inadequate.

Manageability and Superiority

The meal period claim is manageable, given the rebuttable presumption and the issues discussed above.

The court also finds that class resolution is a superior manner of proceeding, particularly where numerous members of the class are still employed by defendant. The alternative to a class is either a multitude of individual actions (Sav-On Drugs, supra, 34 Cal.4th at p. 399) or no remedy for class members.

Claims Against Thibeault Co-Owners

Defendant asserts no class claims are, or could be, brought against the co-owners, the Thibeaults. The complaint lists them as parties to the claims sought to be certified. Under Labor Code 558.1, they may be liable for violations of the IWC Wage Orders or designated sections of the Labor Code. The class is appropriately certified against them as well as against the company.

Conclusion

The court accordingly certifies the meal period subclass only. The parties are ordered to meet and confer on a class notice plan and to file and email to the department clerk a joint statement, listing agreements and disputes, no later than January 3, 2023. The court sets a Case Management Conference to address this issue and any others the parties wish to raise, on January 10, 2023 at 3:00 pm.

Dated: 12/06/2022



Brad Seligman / Judge

Exhibit 3

PSA ID	Contact	Last Name	First Name
NKMBUKT101	Carlos Acevedo	Acevedo	Carlos
NKMBUKT102	Erick Acevedo	Acevedo	Erick
NKMBUKT103	David Adan Barrera	Adan Barrera	David
NKMBUKT104	Aramis Aguilar	Aguilar	Aramis
NKMBUKT105	Veronica Alfaro	Alfaro	Veronica
NKMBUKT106	Maalik Alford	Alford	Maalik
NKMBUKT107	Jose Almaraz	Almaraz	Jose
NKMBUKT108	Erazto Alonzo	Alonzo	Erazto
NKMBUKT109	Jorge Alvarado	Alvarado	Jorge
NKMBUKT110	Reynaldo Alvarado	Alvarado	Reynaldo
NKMBUKT111	Armando Alvarez	Alvarez	Armando
NKMBUKT112	Daniel Alvarez Jr	Alvarez Jr	Daniel
NKMBUKT113	Demetrio Analco Garcia	Analco Garcia	Demetrio
NKMBUKT114	Jaime Aquino	Aquino	Jaime
NKMBUKT115	Eduardo Arango Jr	Arango Jr	Eduardo
NKMBUKT116	Esperanza A Avila	Avila	Esperanza A
NKMBUKT117	Julia Avila Chonay	Avila Chonay	Julia
NKMBUKT118	Daysi Ayala	Ayala	Daysi
NKMBUKT119	Agustin Baltazar	Baltazar	Agustin
NKMBUKT120	Nivea Baptista	Baptista	Nivea
NKMBUKT121	Nelson Barillas	Barillas	Nelson
NKMBUKT122	Ruby S Baruth	Baruth	Ruby S
NKMBUKT123	Herlindo Bautista	Bautista	Herlindo
NKMBUKT124	Santiago Bautista	Bautista	Santiago
NKMBUKT125	Francisca Bautista Avila	Bautista Avila	Francisca
NKMBUKT126	Jaquelina Bazan	Bazan	Jaquelina
NKMBUKT127	Alfonso Becerra	Becerra	Alfonso
NKMBUKT128	Jorge Bejarano	Bejarano	Jorge
NKMBUKT129	Hever Berreondo Mendez	Berreondo Mendez	Hever
NKMBUKT130	Brian A Bertoli	Bertoli	Brian A
NKMBUKT131	Ian Bertrando	Bertrando	Ian
NKMBUKT132	Ancelmo Bibiano	Bibiano	Ancelmo
NKMBUKT133	Ulises Bibiano	Bibiano	Ulises
NKMBUKT134	Tomas Bibiano Perez	Bibiano Perez	Tomas
NKMBUKT135	Cinque Black	Black	Cinque
NKMBUKT136	Ashley R Botwinick	Botwinick	Ashley R
NKMBUKT137	Tyler Breen	Breen	Tyler
NKMBUKT138	Santos Brizuela	Brizuela	Santos
NKMBUKT139	Hilda Carbajal-Ramirez	Carbajal-Ramirez	Hilda
NKMBUKT140	Marcus Carr	Carr	Marcus
NKMBUKT141	Cosmo Carter	Carter	Cosmo
NKMBUKT142	Petra Castaneda	Castaneda	Petra
NKMBUKT143	Rubilia Castaneda	Castaneda	Rubilia
NKMBUKT144	Luis Castillo	Castillo	Luis

NKMBUKT145	Sergio Castillo	Castillo	Sergio
NKMBUKT146	Irma Castro	Castro	Irma
NKMBUKT147	Alfredo Cervantes	Cervantes	Alfredo
NKMBUKT148	Sarah C Chernoff	Chernoff	Sarah C
NKMBUKT149	Devyn Christy	Christy	Devyn
NKMBUKT150	Lorenzo Clark	Clark	Lorenzo
NKMBUKT151	Carlos Cobian	Cobian	Carlos
NKMBUKT152	Lea C Collins	Collins	Lea C
NKMBUKT153	Ivan Contreras	Contreras	Ivan
NKMBUKT154	Drusilla Cowan	Cowan	Drusilla
NKMBUKT155	Luis Cruz	Cruz	Luis
NKMBUKT156	Mateo Cruz	Cruz	Mateo
NKMBUKT157	Paloma Cruz	Cruz	Paloma
NKMBUKT158	Josue Cuatlacuatl	Cuatlacuatl	Josue
NKMBUKT159	Jose Curiel-Morales	Curiel-Morales	Jose
NKMBUKT161	Kendall Davis	Davis	Kendall
NKMBUKT162	Sonja Davison	Davison	Sonja
NKMBUKT163	Aja De Coudreaux	De Coudreaux	Aja
NKMBUKT164	Pablo De Jesus Garcia	De Jesus Garcia	Pablo
NKMBUKT165	Brooklynn Dees	Dees	Brooklynn
NKMBUKT166	Mary Delgado	Delgado	Mary
NKMBUKT167	Bryan Delgado Molina	Delgado Molina	Bryan
NKMBUKT168	Jazmin Diaz	Diaz	Jazmin
NKMBUKT169	Victor Hugo Diaz	Diaz	Victor Hugo
NKMBUKT170	Jaydy M Diaz Mendez	Diaz Mendez	Jaydy M
NKMBUKT171	George Didescu	Didescu	George
NKMBUKT172	Nathaniel Dilworth Took	Dilworth Took	Nathaniel
NKMBUKT173	Theodoric Dixon	Dixon	Theodoric
NKMBUKT174	Cesar Dominguez	Dominguez	Cesar
NKMBUKT175	Mariah Dominguez	Dominguez	Mariah
NKMBUKT176	Aiden Douglass	Douglass	Aiden
NKMBUKT177	Valerian S D'Souza	D'Souza	Valerian S
NKMBUKT178	Dominique Duke	Duke	Dominique
NKMBUKT179	Jasmin Enriquez Briseno	Enriquez Briseno	Jasmin
NKMBUKT180	Moserrat Escalera	Escalera	Moserrat
NKMBUKT181	Cesar Escalera Pasillas	Escalera Pasillas	Cesar
NKMBUKT182	Leopoldo Estrada	Estrada	Leopoldo
NKMBUKT183	Zena L Evans	Evans	Zena L
NKMBUKT184	Omar Farah	Farah	Omar
NKMBUKT185	Kyle Ferraris	Ferraris	Kyle
NKMBUKT186	Enedina Figueroa	Figueroa	Enedina
NKMBUKT187	Chelsey L Flesher	Flesher	Chelsey L
NKMBUKT188	Alejandro Flores	Flores	Alejandro
NKMBUKT189	Domingo Francisco Pedro	Francisco Pedro	Domingo
NKMBUKT190	Claudia Frye	Frye	Claudia

NKMBUKT191	Amador Garcia	Garcia	Amador
NKMBUKT192	Gabriela Garcia	Garcia	Gabriela
NKMBUKT193	Julio Garcia	Garcia	Julio
NKMBUKT194	Reyna Garcia	Garcia	Reyna
NKMBUKT195	Zuilma Garcia	Garcia	Zuilma
NKMBUKT196	Veronica Garcia Aquino	Garcia Aquino	Veronica
NKMBUKT197	Jeffry E Garcia Osorio	Garcia Osorio	Jeffry E
NKMBUKT198	Luis Genchi	Genchi	Luis
NKMBUKT199	Maria Genchi	Genchi	Maria
NKMBUKT200	Crescencio Genchi Tornez	Genchi Tornez	Crescencio
NKMBUKT201	Dream Gibson	Gibson	Dream
NKMBUKT202	Tarik Glenn	Glenn	Tarik
NKMBUKT203	Brandon L Glenning	Glenning	Brandon L
NKMBUKT204	Luis Gomez	Gomez	Luis
NKMBUKT205	Mildred Gomez	Gomez	Mildred
NKMBUKT206	Victor A Gomez Bautista	Gomez Bautista	Victor A
NKMBUKT207	Victor F Gonzalez	Gonzalez	Victor F
NKMBUKT208	Oralia Gonzalez Valdez	Gonzalez Valdez	Oralia
NKMBUKT209	Norman Grandjean	Grandjean	Norman
NKMBUKT210	Jorge Guerra	Guerra	Jorge
NKMBUKT211	Efren Gutierrez	Gutierrez	Efren
NKMBUKT212	Dontae K Haggerty	Haggerty	Dontae K
NKMBUKT213	Jaylen C Hall	Hall	Jaylen C
NKMBUKT214	Cory Harris	Harris	Cory
NKMBUKT215	Jacqueline Harvel	Harvel	Jacqueline
NKMBUKT216	Jazmine M Harvel	Harvel	Jazmine M
NKMBUKT217	Romond Heagler	Heagler	Romond
NKMBUKT218	Francisco Hernandez	Hernandez	Francisco
NKMBUKT219	Luis G Hernandez	Hernandez	Luis G
NKMBUKT220	Martha Hernandez	Hernandez	Martha
NKMBUKT221	Maximiliano Hernandez	Hernandez	Maximiliano
NKMBUKT222	Stephen Hewlett	Hewlett	Stephen
NKMBUKT223	Barbie Hix	Hix	Barbie
NKMBUKT224	Devin Hollinsworth	Hollinsworth	Devin
NKMBUKT225	Destinee Hunter	Hunter	Destinee
NKMBUKT226	Daeun S Hwang	Hwang	Daeun S
NKMBUKT227	Eduardo Ignacio Contreras	Ignacio Contreras	Eduardo
NKMBUKT228	Carlos Ignacio Lorenzo	Ignacio Lorenzo	Carlos
NKMBUKT229	Peter Ingargiola	Ingargiola	Peter
NKMBUKT230	Robert R Jackson	Jackson	Robert R
NKMBUKT231	Sterlie Jackson	Jackson	Sterlie
NKMBUKT232	Samuel Jacobs	Jacobs	Samuel
NKMBUKT233	Jose Jimenez	Jimenez	Jose
NKMBUKT234	Patrice C Johnson	Johnson	Patrice C
NKMBUKT235	Ricardo I Jones	Jones	Ricardo I

NKMBUKT236	Cyleste Kelly	Kelly	Cyleste
NKMBUKT237	Maria C Kempe	Kempe	Maria C
NKMBUKT238	Patricia Keough	Keough	Patricia
NKMBUKT239	Jatinie King	King	Jatinie
NKMBUKT240	Tamica King	King	Tamica
NKMBUKT241	Chase Knight	Knight	Chase
NKMBUKT242	Marina Kotelnikova	Kotelnikova	Marina
NKMBUKT243	Kavishka Kottege	Kottege	Kavishka
NKMBUKT244	Jacqueline C Kracht	Kracht	Jacqueline C
NKMBUKT245	Justin J Kyle	Kyle	Justin J
NKMBUKT246	Gabriel LaCasse	LaCasse	Gabriel
NKMBUKT247	Desjuan Lateri	Lateri	Desjuan
NKMBUKT248	Lenard Leblanc	Leblanc	Lenard
NKMBUKT249	Destinie Lee	Lee	Destinie
NKMBUKT250	Danielle L LeValley	LeValley	Danielle L
NKMBUKT251	Amanda Levey	Levey	Amanda
NKMBUKT252	Giovanni Leyva	Leyva	Giovanni
NKMBUKT253	Bohong Liang	Liang	Bohong
NKMBUKT254	Marisol Linares Parra	Linares Parra	Marisol
NKMBUKT255	Whitney R Livingston	Livingston	Whitney R
NKMBUKT256	Josefa Lobato Espinoza	Lobato Espinoza	Josefa
NKMBUKT257	Adamaris Lopez	Lopez	Adamaris
NKMBUKT258	Dinet Lopez	Lopez	Dinet
NKMBUKT259	Dominic R Lopez	Lopez	Dominic R
NKMBUKT260	Isabel Lopez	Lopez	Isabel
NKMBUKT261	Jose A Lopez	Lopez	Jose A
NKMBUKT262	Karla Lopez	Lopez	Karla
NKMBUKT263	Verakerr I Lopez	Lopez	Verakerr I
NKMBUKT264	Daniel Lorenzo Ramirez	Lorenzo Ramirez	Daniel
NKMBUKT265	Teri L Love	Love	Teri L
NKMBUKT266	Lisette Loza	Loza	Lisette
NKMBUKT267	Estela Luna	Luna	Estela
NKMBUKT268	Charles A Lynch	Lynch	Charles A
NKMBUKT269	Veronica Macario	Macario	Veronica
NKMBUKT270	Jacov Malul	Malul	Jacov
NKMBUKT271	Pascale Manuera	Manuera	Pascale
NKMBUKT272	Agliberto Martinez	Martinez	Agliberto
NKMBUKT274	Javier Martinez	Martinez	Javier
NKMBUKT273	Javier Martinez	Martinez	Javier
NKMBUKT275	Ruby Martinez	Martinez	Ruby
NKMBUKT276	Felipe Martinez Bibiano	Martinez Bibiano	Felipe
NKMBUKT277	Erin Mathern	Mathern	Erin
NKMBUKT278	Jannet Mayoral-Villela	Mayoral-Villela	Jannet
NKMBUKT279	Roxana Melendez Mendez	Melendez Mendez	Roxana
NKMBUKT280	Carolina Mena	Mena	Carolina

NKMBUKT281	Inmar Mendez	Mendez	Inmar
NKMBUKT282	Mery Mendez	Mendez	Mery
NKMBUKT283	Pablo Mendez	Mendez	Pablo
NKMBUKT284	Aldo Mendez Suarez	Mendez Suarez	Aldo
NKMBUKT285	Gerardo Merida	Merida	Gerardo
NKMBUKT286	Dawit Mersha	Mersha	Dawit
NKMBUKT287	Humberto Meza	Meza	Humberto
NKMBUKT288	Eva Michel-Ford	Michel-Ford	Eva
NKMBUKT289	Paloma Micheli	Micheli	Paloma
NKMBUKT290	Nicholaas Miller	Miller	Nicholaas
NKMBUKT291	Chenille Moldovan	Moldovan	Chenille
NKMBUKT292	Sheyla Monge	Monge	Sheyla
NKMBUKT293	Luis Moo Fernandez	Moo Fernandez	Luis
NKMBUKT294	Diego Morales	Morales	Diego
NKMBUKT295	Elva Morales	Morales	Elva
NKMBUKT296	Jose Morales	Morales	Jose
NKMBUKT297	Mariana Morales	Morales	Mariana
NKMBUKT298	Gamalia Morales Sanchez	Morales Sanchez	Gamalia
NKMBUKT299	Haeli Morris	Morris	Haeli
NKMBUKT300	Jose Mutzutz	Mutzutz	Jose
NKMBUKT301	Yazan Z Naal	Naal	Yazan Z
NKMBUKT302	Yexica Najera Cruz	Najera Cruz	Yexica
NKMBUKT303	Stanton Nareau	Nareau	Stanton
NKMBUKT304	Martha Navarrete Acevedo	Navarrete Acevedo	Martha
NKMBUKT305	Gloria Nguyen	Nguyen	Gloria
NKMBUKT306	Amanda Nordquist	Nordquist	Amanda
NKMBUKT307	Chiyo Nukaga	Nukaga	Chiyo
NKMBUKT308	Dixy Nunez	Nunez	Dixy
NKMBUKT309	Geovani Nunez	Nunez	Geovani
NKMBUKT310	Joanne Nunez	Nunez	Joanne
NKMBUKT311	Vinny Nunez	Nunez	Vinny
NKMBUKT312	Juan A Nunez Pedroza	Nunez Pedroza	Juan A
NKMBUKT313	Elvin Ochoa	Ochoa	Elvin
NKMBUKT314	Esteban Ochoa	Ochoa	Esteban
NKMBUKT315	Charly E Orellana	Orellana	Charly E
NKMBUKT316	Sydney K Ortega	Ortega	Sydney K
NKMBUKT317	Maria Ortiz	Ortiz	Maria
NKMBUKT318	Casar Osuna	Osuna	Casar
NKMBUKT319	Branden Owens	Owens	Branden
NKMBUKT320	Laticia Pablo	Pablo	Laticia
NKMBUKT321	Maria Padilla Estrada	Padilla Estrada	Maria
NKMBUKT322	Antonio C Padron	Padron	Antonio C
NKMBUKT323	Francisco Paredes	Paredes	Francisco
NKMBUKT324	Jose A Pareja Vacaflores	Pareja Vacaflores	Jose A
NKMBUKT325	Maria Pavon	Pavon	Maria

NKMBUKT326	Sonia Pena	Pena	Sonia
NKMBUKT327	Beyli Perez	Perez	Beyli
NKMBUKT328	Elias Perez	Perez	Elias
NKMBUKT329	Jesus Perez	Perez	Jesus
NKMBUKT330	Quincy Perez	Perez	Quincy
NKMBUKT331	Yesica Perez	Perez	Yesica
NKMBUKT332	Julio C Perez Isara	Perez Isara	Julio C
NKMBUKT333	Luis Perez Mendoza	Perez Mendoza	Luis
NKMBUKT334	Michael Phillips	Phillips	Michael
NKMBUKT335	Marcela H Piceno Lopez	Piceno Lopez	Marcela H
NKMBUKT336	Audra Ponce	Ponce	Audra
NKMBUKT337	Ashley Powell	Powell	Ashley
NKMBUKT338	Kimberly Powell	Powell	Kimberly
NKMBUKT339	Olivia Prink	Prink	Olivia
NKMBUKT340	Marginis Pulido	Pulido	Marginis
NKMBUKT341	Devynn J Quarles	Quarles	Devynn J
NKMBUKT342	Jose Quintero	Quintero	Jose
NKMBUKT343	David Quiroga	Quiroga	David
NKMBUKT344	Ana Ramirez	Ramirez	Ana
NKMBUKT345	Ivan Ramirez	Ramirez	Ivan
NKMBUKT346	Rene Ramirez	Ramirez	Rene
NKMBUKT347	Jose Ramirez Lopez	Ramirez Lopez	Jose
NKMBUKT348	Nairovi Ramirez Santos	Ramirez Santos	Nairovi
NKMBUKT349	Pahola Ramos Vergara	Ramos Vergara	Pahola
NKMBUKT350	Silvia Rangel Munoz	Rangel Munoz	Silvia
NKMBUKT351	Rafael Razo	Razo	Rafael
NKMBUKT352	Ernesto Resendiz	Resendiz	Ernesto
NKMBUKT353	Jose Reveles Soriano	Reveles Soriano	Jose
NKMBUKT354	Ruby Rew	Rew	Ruby
NKMBUKT355	Roberto Z Reyes	Reyes	Roberto Z
NKMBUKT356	Magaly Reyes Gomez	Reyes Gomez	Magaly
NKMBUKT357	Armando Reyna Velazquez	Reyna Velazquez	Armando
NKMBUKT358	Joaquin J Rincon	Rincon	Joaquin J
NKMBUKT359	Tomas Rivera	Rivera	Tomas
NKMBUKT360	Marlin Rivera Hernandez	Rivera Hernandez	Marlin
NKMBUKT361	Ariana Rivera Martinez	Rivera Martinez	Ariana
NKMBUKT362	Zierre Robinson	Robinson	Zierre
NKMBUKT363	Evan Rodrigues	Rodrigues	Evan
NKMBUKT364	Enilda Rodriguez	Rodriguez	Enilda
NKMBUKT365	Jazmin Rodriguez	Rodriguez	Jazmin
NKMBUKT366	Joe Rodriguez	Rodriguez	Joe
NKMBUKT368	Prisilia Rodriguez	Rodriguez	Prisilia
NKMBUKT369	Sandy Rodriguez	Rodriguez	Sandy
NKMBUKT370	Zoe Rothman	Rothman	Zoe
NKMBUKT371	Erin Rubin	Rubin	Erin

NKMBUKT372	Francisco Ruiz Carmona	Ruiz Carmona	Francisco
NKMBUKT373	Samantha A Russi	Russi	Samantha A
NKMBUKT374	Jorge Saldana	Saldana	Jorge
NKMBUKT375	Todd W Sampson	Sampson	Todd W
NKMBUKT376	Edgar Sanchez	Sanchez	Edgar
NKMBUKT377	Hector Sanchez	Sanchez	Hector
NKMBUKT378	Eduardo Sandoval	Sandoval	Eduardo
NKMBUKT379	Glenda Liliana Santizo	Santizo	Glenda Liliana
NKMBUKT380	Julia V Santos Lopez	Santos Lopez	Julia V
NKMBUKT381	Johannes Scheepers	Scheepers	Johannes
NKMBUKT382	Yididya Sebhatu	Sebhatu	Yididya
NKMBUKT383	Alvin Shaw	Shaw	Alvin
NKMBUKT384	Nicole Shek	Shek	Nicole
NKMBUKT385	Bethany Shields	Shields	Bethany
NKMBUKT386	Elise Siegel	Siegel	Elise
NKMBUKT387	Edward J Silva	Silva	Edward J
NKMBUKT388	Myriah L Sims	Sims	Myriah L
NKMBUKT389	Allison Smith	Smith	Allison
NKMBUKT390	Charris Smith	Smith	Charris
NKMBUKT391	Michael Smith	Smith	Michael
NKMBUKT392	Allysha Smith-Catley	Smith-Catley	Allysha
NKMBUKT393	Marco Solorio	Solorio	Marco
NKMBUKT394	Valamir Soriano	Soriano	Valamir
NKMBUKT395	Victor Sosa	Sosa	Victor
NKMBUKT396	Melinda Stinson	Stinson	Melinda
NKMBUKT397	Yesica Tapia	Tapia	Yesica
NKMBUKT398	Khion Tate	Tate	Khion
NKMBUKT399	Omar Tejeda	Tejeda	Omar
NKMBUKT400	Jeyslin Terrero	Terrero	Jeyslin
NKMBUKT401	Michael Thomas	Thomas	Michael
NKMBUKT402	Brittney A Tipsword	Tipsword	Brittney A
NKMBUKT403	Omar Tornez	Tornez	Omar
NKMBUKT404	Crystal Tremmer	Tremmer	Crystal
NKMBUKT405	Kyle Tribble	Tribble	Kyle
NKMBUKT406	Carla Tuku Carvalho	Tuku Carvalho	Carla
NKMBUKT408	Armando Urizar	Urizar	Armando
NKMBUKT409	Saul Valente	Valente	Saul
NKMBUKT410	Enrique Valente Mora	Valente Mora	Enrique
NKMBUKT411	Antoinique P Valentino	Valentino	Antoinique P
NKMBUKT412	Zoilo Vargas	Vargas	Zoilo
NKMBUKT413	Esperidion Vasquez	Vasquez	Esperidion
NKMBUKT414	Hector Vasquez	Vasquez	Hector
NKMBUKT415	Nicole M Vassallo	Vassallo	Nicole M
NKMBUKT416	Ma Vergara Bravo	Vergara Bravo	Ma
NKMBUKT417	Alison L Walker	Walker	Alison L

NKMBUKT418	Drew Walker	Walker	Drew
NKMBUKT419	Vincent Walker	Walker	Vincent
NKMBUKT420	Hayley Waringer	Waringer	Hayley
NKMBUKT422	Isabella Withrow	Withrow	Isabella
NKMBUKT423	Martial Yapo	Yapo	Martial
NKMBUKT424	Josue Zamora Avila	Zamora Avila	Josue

Address 1	City	State	ZIP Code	Opt Out
138 Ave	San Leandro	CA	94578	0
141st Street	San Leandro	CA	94578	0
220 E Lambert Rd	La Habra	CA	90631-6133	0
812 6th Ave Apt 3	Oakland	CA	94606-2818	0
2359 Wendell Ave	Richmond	CA	94804-1215	0
2011 Linden St	Oakland	CA	94607-2839	0
6940 Snell St Unit C	Oakland	CA	94621-3300	0
1935 E 52nd St Apt 1	Long Beach	CA	90805-6245	0
7721 84th Ave, Apt 2	Oakland	CA	94621	0
1623 S Walnut St Apt 4	Anaheim	CA	92802-2615	0
1449 E 43rd Pl	Los Angeles	CA	90011-3805	0
215 N Fickett St Apt 1	Los Angeles	CA	90033-3536	0
1722 27th Ave Apt 45	Oakland	CA	94601-1779	0
1806 33rd Ave	Oakland	CA	94601-3020	0
6775 Golden Gate Dr Apt 387	Dublin	CA	94568-4438	0
2601 Moraga St	San Francisco	CA	94122-4118	0
1665 51st Ave	Oakland	CA	94601-5236	0
1153 89th Ave	Oakland	CA	94621-1119	0
1501 W Warner Ave	Santa Ana	CA	92704-5146	0
2120 Huntington St Apt D	Huntington Beach	CA	92648-2836	0
13282 Sandra Pl	Garden Grove	CA	92843-2712	0
320 W Cota St	Santa Barbara	CA	93101-3338	0
3334 Willow Pass Rd Apt D	Concord	CA	94519-2347	0
2240 94th Ave	Oakland	CA	94603-1817	0
1783 36th Ave	Oakland	CA	94601-3631	0
1409 3rd Ave	Oakland	CA	94606-1878	0
1739 S Nutwood St	Anaheim	CA	92804-6541	0
836 34th Ave	Oakland	CA	94601-3405	0
16318 Maubert Ave Apt D	San Leandro	CA	94578-2268	0
1202 Mariner Dr	San Francisco	CA	94130-1210	0
966 Hilldale Ave	Berkeley	CA	94708-1418	0
1507 28th Ave Apt 4	Oakland	CA	94601-1688	0
1764 28th Ave	Oakland	CA	94601-2455	0
862 36th St	Emeryville	CA	94608-3955	0
1425 Lakeside Dr Apt 105	Oakland	CA	94612-4338	0
720 EASTERN LN	BRICK	NJ	8723	0
3219 Bonnie Hill Dr	Los Angeles	CA	90068-1322	0
1251 E 34th St	Los Angeles	CA	90011-4149	0
344 PARK ST	SAN LEANDRO	CA	94577	0
1540 Fred Jackson Way Unit 212	Richmond	CA	94801-1598	0
737 Italy Ave	San Francisco	CA	94112-3520	0
1825 Fruitvale Ave Apt 11	Oakland	CA	94601-2443	0
851 Mead Ave	Oakland	CA	94607-3443	0
1820 Foothill Blvd	Oakland	CA	94606-4638	0

1618 Sherman Pl Apt F	Long Beach	CA	90804-7897	0
736 Baker St Apt E4	Costa Mesa	CA	92626-4355	0
1920 35th Ave	Oakland	CA	94601-3121	0
13453 Bessemer St	Valley Glen	CA	91401-3007	0
304 Shrine Club Rd	Seneca	SC	29672-4875	0
1315 ANACAPA ST APT 2	SANTA BARBARA	CA	93101	0
886 Mead Ave	Oakland	CA	94607-3444	0
1253 Sultan Cir	Carson	CA	90746-3169	0
773 17th St	Oakland	CA	94612-1018	0
1018 24th St	Oakland	CA	94607-2904	0
83 Albert Ln	Concord	CA	94518-2017	0
2809 W 8th St	Los Angeles	CA	90005-1254	0
618 Neilson St	Albany	CA	94707-1505	0
1701 Seminary Ave	Oakland	CA	94621-4141	0
3511 Davis St	Oakland	CA	94601-3837	0
291 FAIRMOUNT AVE APT 22	OAKLAND	CA	94611	0
3537 Rhoda Ave	Oakland	CA	94602-3354	0
2917 MacArthur Blvd Apt 3G	Oakland	CA	94602-3267	0
8254 Telegraph Rd	Downey	CA	90240-2255	0
15911 Paseo Del Campo	San Lorenzo	CA	94580-2307	0
6218 Fenham St	Oakland	CA	94621-3702	0
233 S BROOKHURST ST APT D115	ANAHEIM	CA	92804	0
902 34th Ave	Oakland	CA	94601-3416	0
2101 Stanton Ave	San Pablo	CA	94806-2172	0
2810 Garden St	Oakland	CA	94601-1342	0
61 Sycamore St	San Francisco	CA	94110-1250	0
930 84th Ave Apt 308	Oakland	CA	94621-1858	0
3815 Lakeside Dr Apt F207	Richmond	CA	94806-5763	0
1618 27th Ave	Oakland	CA	94601-1612	0
4202 Stewart Ave	Baldwin Park	CA	91706-3121	0
1745 Sextonview Ln	Sebastopol	CA	95472-9436	0
513 S Townsend St	Santa Ana	CA	92703-4225	0
2230 W Ridgeway St	Jackson	MS	39213-6461	0
238 Tunis Rd	Oakland	CA	94603-1062	0
4500 Magi Ct	Antioch	CA	94509-6298	0
3311 MacArthur Blvd	Oakland	CA	94602-3821	0
200 E 53rd St	Los Angeles	CA	90011-4565	0
1058 61st St	Oakland	CA	94608-2355	0
2908 Glascock St	Oakland	CA	94601-2825	0
1815 Denkinger Rd	Concord	CA	94521-1133	0
2527 Market St	Oakland	CA	94607-3437	0
755 Crater Camp Dr	Calabasas	CA	91302-2121	0
13201 Balboa Ave Apt 2	Garden Grove	CA	92840-4449	0
3175 Samuel St	Riverside	CA	92504-4456	0
936 Lafayette Ave	Brooklyn	NY	11221-5598	0

4838 St Charles Pl	Los Angeles	CA	90019-5660	0
7839 Weld St	Oakland	CA	94621-2641	0
832 27th Ave	Oakland	CA	94601-1438	0
1409 23rd Ave # 2	Oakland	CA	94606-5016	0
2694 Shamrock Dr	San Pablo	CA	94806-1565	0
1250 Adams Ave Apt F107	Costa Mesa	CA	92626-5504	0
1325 78th Ave	Oakland	CA	94621-2605	0
36th Ave 108	Oakland	CA	94601	0
1837 E 25th St	Oakland	CA	94606-3335	0
1837 E 25th St	Oakland	CA	94606-3335	0
613 Chardonnay Dr	Fremont	CA	94539-8008	0
2225 Ward St	Berkeley	CA	94705-1027	0
915 Madison St	Albany	CA	94706-2024	0
94607 542 LEWIS ST	OAKLAND	CA	94607	0
2240 94th Ave	Oakland	CA	94603-1817	0
9223 Birch St Apt 4	Oakland	CA	94603-1651	0
15991 S MYRTLE AVE APT B	TUSTIN	CA	92780	0
2624 Foothill Blvd Apt 105	Oakland	CA	94601-1751	0
4105 Duquesne Ave Apt 5	Culver City	CA	90232-2840	0
35541 Camino Capistrano	San Clemente	CA	92672-4836	0
4745 Tacomic Dr	Sacramento	CA	95842-2423	0
1745 37th Ave	Oakland	CA	94601-3543	0
271 N Oak St Apt D	Orange	CA	92867-7734	0
5762 Walnut St	Oakland	CA	94605-1054	0
8028 Westport Cir	Discovery Bay	CA	94505-2678	0
5235 Kester Ave Apt 209	Sherman Oaks	CA	91411-4076	0
3017 Birmingham Dr	Richmond	CA	94806-2632	0
1032 Mohr Ln Apt 68	Concord	CA	94518-3837	0
404 Chesley Ave	Richmond	CA	94801-1510	0
21742 Vallejo St	Hayward	CA	94541-2522	0
225 S 17th St	Richmond	CA	94804-2603	0
419 Crestmont Dr	San Francisco	CA	94131-1018	0
1925 E 23rd St # A	Oakland	CA	94606-4120	0
3650 E Poppy St	Long Beach	CA	90805-3964	0
1109 Estudillo St	Martinez	CA	94553	0
348 Euclid Ave	Oakland	CA	94610-3232	0
5603 Foothill Blvd	Oakland	CA	94605-1069	0
1639 24th Ave 2	Oakland	CA	94601	0
2127 Jones St	San Francisco	CA	94133-2515	0
385 Jayne Ave Apt 110	Oakland	CA	94610-3354	0
3115 Callecita St	Sacramento	CA	95815-1325	0
1907 Tunnel Rd	Berkeley	CA	94705-1762	0
320 S Clementine St	Anaheim	CA	92805-3801	0
369 Garcia Ave	San Leandro	CA	94577-1717	0
9316 MacArthur Blvd Apt 1	Oakland	CA	94605-4300	0

6732 Franklin Pl	Los Angeles	CA	90028-4538	0
5105 Bakman Ave Apt 11	North Hollywood	CA	91601-3713	0
7074 PESCADERO CREEK RD	PESCADERO	CA	94060	0
2625 N State Highway 360 Apt 825	Grand Prairie	TX	75050-7894	0
850 E Leland Rd Apt 16	Pittsburg	CA	94565-5306	0
1901 E 1st St Apt 367	Santa Ana	CA	92705-4090	0
16792 NW Desert Canyon Dr	Beaverton	OR	97006-7313	0
947 S California Ave	West Covina	CA	91790-4005	0
6564 Liggett Dr	Oakland	CA	94611-3202	0
20322 Portview Cir Unit 101	Huntington Beach	CA	92646-8559	0
1731 Pacific Coast Hwy	Hermosa Beach	CA	90254-3251	0
169 Arthur Rd	Martinez	CA	94553-2205	0
2234 Chestnut St	Oakland	CA	94607-2909	0
33 Peppertree Way 142	Pittsburg	CA	94565	0
385 Church St	San Francisco	CA	94114-1718	0
4443 Anderson Ave	Oakland	CA	94619-1618	0
1733 Seminary Ave Apt 104	Oakland	CA	94621-4100	0
1574 W 1470 N	SAINT GEORGE	UT	84770	0
3922 Foothill Blvd	Oakland	CA	94601	0
744 BUCKINGHORSE DR	TRACY	CA	95376	0
2527 Market St	Oakland	CA	94607-3437	0
2406 Market St	Oakland	CA	94607-3436	0
821 Mead Ave	Oakland	CA	94607-3443	0
2498 Piedmont Ave	Berkeley	CA	94704-2455	0
2049 1/2 Cambridge St	Los Angeles	CA	90006	0
4710 S Figueroa St	Los Angeles	CA	90037-3136	0
1709 W Cubbon St	Santa Ana	CA	92703-4605	0
3510 Via Real	Carpinteria	CA	93013-3048	0
900 34th Ave Apt 3	Oakland	CA	94601-3401	0
3401 Salisbury St Apt C	Oakland	CA	94601-3165	0
643 TAYLOR AVE APT A	ALAMEDA	CA	94501	0
314 E 52nd St	Los Angeles	CA	90011-4576	0
2340 Powell St	Emeryville	CA	94608-1738	0
3768 BROOKDALE AVE APT 2	OAKLAND	CA	94619	0
1555 Lakeside Dr Apt 40	Oakland	CA	94612-4542	0
1221 E 20th St	Oakland	CA	94606-3175	0
1501 W Warner Ave	Santa Ana	CA	92704-5146	0
257 Athol Ave	Oakland	CA	94606-1342	0
3112 14th Ave	Oakland	CA	94602-1069	0
1734 Margaret St	San Jose	CA	95116-3414	0
394 Mead Ave	Oakland	CA	94607	0
2465 Shoreline Dr Apt 109	Alameda	CA	94501-6215	0
821 Sunset Blvd	Hayward	CA	94541-2517	0
2550 Franklin Ave	Union City	CA	94587-1725	0
1616 87th Ave	Oakland	CA	94621-1512	0

1680 Grand Ave	San Leandro	CA	94577-5304	0
16318 Maubert Ave Apt B	San Leandro	CA	94578-2268	0
1279 Pacific Ave Apt 32	San Leandro	CA	94577-2551	0
1014 92nd Ave	Oakland	CA	94603-1206	0
2406 Market St	Oakland	CA	94607-3436	0
362 Jayne Ave Apt 10	Oakland	CA	94610-3302	0
1355 W COURT ST APT 607	LOS ANGELES	CA	90026	0
603 Seneca Ave Apt 2L	Ridgewood	NY	11385-2162	0
2235 Grouse Way	Union City	CA	94587-4612	0
690 15th St Apt 306	Oakland	CA	94612-1224	0
1601 Grant Ave	San Francisco	CA	94133-3041	0
	Oakland	CA	92672	0
432 Marina Way S	Richmond	CA	94804-2566	0
1707 69th Ave	Oakland	CA	94621-3427	0
902 34th Ave	Oakland	CA	94601-3416	0
516 Laurel Ave	Brea	CA	92821-6633	0
3036 Willow Pass Rd Apt 15	Concord	CA	94519-2565	0
1445 Seminary Ave Apt C	Oakland	CA	94621-4272	0
3713 MT DIABLO BLVD APT 3	LAFAYETTE	CA	94549	0
1120 W 6TH ST APT 1258	LOS ANGELES	CA	90017	0
1635 N FORMOSA AVE APT 101	LOS ANGELES	CA	90046	0
1532 Miller Ave	Oakland	CA	94601-1035	0
145 Navajo Dr Apt G5	Sedona	AZ	86336-3772	0
1806 33RD AVE	OAKLAND	CA	94601	0
21731 Rimrock St	Lake Forest	CA	92630-2727	0
282 Esperanza Ave	Long Beach	CA	90802-3646	0
1728 67th Ave	Oakland	CA	94621-3620	0
16380 Foothill Blvd	San Leandro	CA	94578-2199	0
1549 Lavetta Way #A	Concord	CA	94521-1738	0
16380 Foothill Blvd	San Leandro	CA	94578-2199	0
2519 Adeline St	Oakland	CA	94607-2405	0
274 40th Street Way Apt 26	Oakland	CA	94611-5605	0
542 Lewis St	Oakland	CA	94607-1240	0
542 Lewis St	Oakland	CA	94607-1240	0
1707 36th Ave Apt 107	Oakland	CA	94601-3649	0
3501 Mandela Parkway	Oakland	CA	94608	0
851 34th Ave Apt C	Oakland	CA	94601-3400	0
2918 E 16th St	Oakland	CA	94601-2352	0
517 Echo Hawk Ct	El Sobrante	CA	94803-2646	0
2778 Foothill Blvd Apt B	Oakland	CA	94601-1759	0
15379 Dewey St	San Leandro	CA	94579-2007	0
8526 Luxor St	Downey	CA	90241-5136	0
506 S Citron St	Anaheim	CA	92805-4420	0
1614 Campbell St Apt 413	Oakland	CA	94607-1655	0
1174 Saint Matthew Pl Apt 105	Concord	CA	94518-1883	0

3225 Santa Clara Ave Apt 4	El Cerrito	CA	94530-3846	0
56 Edgewood Ct	Daly City	CA	94014-1844	0
900 34th Ave Apt 4	Oakland	CA	94601-3401	0
56 Edgewood Ct	Daly City	CA	94014-1844	0
2871 Ceekay Ct	Castro Valley	CA	94546-6714	0
56 Edgewood Ct	Daly City	CA	94014-1844	0
524 22nd St	Richmond	CA	94801-3325	0
24593 Bethel St	Wildomar	CA	92595-8726	0
461 Metro Walk Way	Richmond	CA	94801-3238	0
1547 34th St	Oakland	CA	94608-4007	0
3009 Irwin St	Vallejo	CA	94591-6614	0
10036 MacArthur Blvd # 10036	Oakland	CA	94605-5127	0
3426 Jennings St	San Francisco	CA	94124-3524	0
2057 Eagle Ave	Alameda	CA	94501-1362	0
360 Pine St	Millbrae	CA	94030-2019	0
1480 Mission Canyon Rd	Santa Barbara	CA	93105-2128	0
1431 E 21st St	Los Angeles	CA	90011-1303	0
3862 Acorn Dr	Oakley	CA	94561-4314	0
110 Olmsted Ct	Pittsburg	CA	94565-5098	0
135 E Wakefield Ave Apt 1	Anaheim	CA	92802-4237	0
1766 86th Ave	Oakland	CA	94621-1564	0
2740 E 17th St	Oakland	CA	94601-1610	0
7229 International Blvd Apt D	Oakland	CA	94621-2801	0
26 Hazelwood Ct	Oakland	CA	94603-2132	0
2307 Garvin Ave	Richmond	CA	94801	0
2295 W Broadway # K-218	Anaheim	CA	92804-2334	0
476 S CHATHAM CIR APT D	ANAHEIM	CA	92806	0
1425 100th Ave	Oakland	CA	94603-2505	0
136 International Blvd	Oakland	CA	94606-2234	0
3056 Blossom St	Oakland	CA	94601-2020	0
2301 E 26th St	Oakland	CA	94601-1213	0
6494 Caballero Blvd	Buena Park	CA	90620-1128	0
1225 DEERPARK DR APT 125	FULLERTON	CA	92831	0
97 Bissell Way	Richmond	CA	94801-3102	0
3217 E 17th St	Oakland	CA	94601-3011	0
1702 85th Ave	Oakland	CA	94621-1719	0
6946 Foothill Blvd Apt 605	Oakland	CA	94605-2449	0
10944 San Pablo Ave	El Cerrito	CA	94530-2372	0
250 PRINCETON ST	SAN FRANCISCO	CA	94134	0
1725 MARION AVE APT K4	NOVATO	CA	94945	0
2001 S HASTER ST APT 36A	ANAHEIM	CA	92802	0
890 Mead Ave	Oakland	CA	94607-3444	0
773 17th St	Oakland	CA	94612-1018	0
1054 Santa Maria Ct	Oakland	CA	94601-1444	0
3957 Verbena St	Napa	CA	94558-1984	0

34 San Pablo Apt 6	Oakland	CA	94607	0
3016 Windsor Dr	Alameda	CA	94501-1663	0
673 Quincy Way	Hayward	CA	94541-7321	0
1801 Sereno Dr	Vallejo	CA	94589-2742	0
1015 N Olive St	Santa Ana	CA	92703-2333	0
3810 38th Ave	Oakland	CA	94601	0
22 Knolltop Ct	Novato	CA	94945-3405	0
6106 HILTON ST APT 1	OAKLAND	CA	94605	0
7229 International Blvd Unit D	Oakland	CA	94621-2801	0
1402 Gordon St	Vallejo	CA	94590-5710	0
2639 Vegas Ave	Castro Valley	CA	94546-6417	0
16716 Judy Way	Cerritos	CA	90703-2823	0
9560 MacArthur Blvd	Oakland	CA	94605-4749	0
533 Clara St	Oakland	CA	94603-1105	0
542 28th Ave	San Francisco	CA	94121-2815	0
1534 Saint Charles St	Alameda	CA	94501-2328	0
5450 De Marcus Blvd Apt 238	Dublin	CA	94568-7586	0
6525 Pine Needle Dr	Oakland	CA	94611-1007	0
1512 Fruitvale Ave Apt 1	Oakland	CA	94601-2336	0
660 Pennsylvania Ave	San Francisco	CA	94107-2916	0
1635 8th St	Oakland	CA	94607-1354	0
626 E 23rd St	Los Angeles	CA	90011-1142	0
792 Niles Ct	Pittsburg	CA	94565-4608	0
1843 8th Ave Apt 2	Oakland	CA	94606-2547	0
1020 Glenwood St	Vallejo	CA	94591-4808	0
504 Imperial Hwy Apt D	Fullerton	CA	92835-1122	0
6007 ADELIN ST	EMERYVILLE	CA	94608	0
1425 Martin Luther King Jr Way	Oakland	CA	94612	0
773 17th St	Oakland	CA	94612-1018	0
2321 Filbert St	Oakland	CA	94607-2916	0
712 N 25th St	Mattoon	IL	61938-2507	0
3001 E 17th St Apt 4	Oakland	CA	94601-2470	0
1749 37th Ave	Oakland	CA	94601-3543	0
2107 E Cesar E Chavez Ave Apt 4	Los Angeles	CA	90033-4354	0
1824 Linden St Apt 5	Oakland	CA	94607-2889	0
2835 82nd Ave	Oakland	CA	94605-3534	0
3440 Hannah St	Emeryville	CA	94608-4024	0
1833 E 25th St Apt A	Oakland	CA	94606-3335	0
5009 Zinfandel Ln	Vallejo	CA	94591-8382	0
4135 S Van Ness Ave	Los Angeles	CA	90062-1439	0
1921 S Garfield Ave	Monterey Park	CA	91754-6516	0
542 Lewis St	Oakland	CA	94607-1240	0
356 Fairway Ter	Philadelphia	PA	19128-4615	0
26 Hazelwood Ct	Oakland	CA	94603-2132	0
321 XIMENO AVE APT A	LONG BEACH	CA	90814	0

1027 24th St	Oakland	CA	94607-2903	0
891 52nd St	Emeryville	CA	94608-3239	0
4340 Normal Ave	Los Angeles	CA	90029-2705	0
1201 Parkmoor Ave Apt 1425	San Jose	CA	95126-3567	0
92 Lupari	Irvine	CA	92618-0116	0
1665 51st Ave	Oakland	CA	94601-5236	0

Exhibit 4

GAROFOLLO & RAMSDELL, LLP
Craig P. Ramsdell (State Bar No. 303942)
Joseph A. Garofolo (State Bar No. 214614)
3443 Golden Gate Way, Suite H
Lafayette, CA 94549
Tel: 415-981-8500
Fax: 415-981-8870
E-mail: cramsdell@garofololaw.com
E-mail: jgarofolo@garofololaw.com

Attorneys for Defendants
Kevén Thibeault and Kristen Thibeault

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

Aja De Coudreaux, *et al.*,

Plaintiffs,

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Ma De Jesus Vergara, *et al.*,

Plaintiffs.

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Case No. RG20058323 (consolidated
with RG20057449)

Reservation No.: 300541827797

ASSIGNED FOR ALL PURPOSES TO:
JUDGE Michael Markman
DEPARTMENT 23, Rene C. Davidson
Courthouse

**OMNIBUS DECLARATION OF DONTAE
HAGGERTY IN SUPPORT OF MOTION
FOR SUMMARY ADJUDICATION ON
PLAINTIFFS' CLAIMS UNDER LABOR
CODE § 558.1 AND DEFENDANTS KEVÉN
THIBEAULT AND KRISTEN
THIBEAULT'S MOTION FOR SUMMARY
ADJUDICATION ON PLAINTIFFS'
CLAIMS UNDER PAGA IN *VERGARA*
ACTION AND *COUDREAUX* ACTION**

Hearing Date: November 19, 2024
Time: 10:00 a.m.
Dept. 23

Bench Trial Date: No Trial Date

1 I, Dontae Haggerty, hereby declare as follows:

2 1. I make this declaration based on my own personal knowledge, and if called as a witness
3 to testify as to the facts set forth herein, I could and would testify competently with respect thereto. I
4 make this omnibus declaration in support of Defendant Kevén Thibeault's Motion for Summary
5 Adjudication on Plaintiffs' Claims under Labor Code § 558.1 and Defendants Kevén Thibeault and
6 Kristen Thibeault's Motion for Summary Adjudication on Plaintiffs' Claims under PAGA.

7 2. I was a Kitchen Supervisor for Kombu Kitchen SF, LLC from 2017 to 2020.

8 3. I have never observed Kevén Thibeault or Kristen Thibeault involved in reviewing
9 employees' time records, monitoring whether employees take their full meal or rest breaks, or
10 monitoring whether employees are reimbursed for any personal expenses incurred.

11 4. I have never communicated with Kevén Thibeault or Kristen Thibeault regarding
12 employment matters relating to meal breaks, rest breaks, or expense reimbursement.

13
14 I declare under the penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct. Executed on this 5th day of September 2024.


16
17 DocuSigned by:

300114B8F41E4DC
18 Dontae Haggerty
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Exhibit 5

GAROFOLO & RAMSDELL, LLP
Craig P. Ramsdell (State Bar No. 303942)
Joseph A. Garofolo (State Bar No. 214614)
3443 Golden Gate Way, Suite H
Lafayette, CA 94549
Tel: 415-981-8500
Fax: 415-981-8870
E-mail: cramsdell@garofololaw.com
E-mail: jgarofolo@garofololaw.com

Attorneys for Defendants
Kevén Thibeault and Kristen Thibeault

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

Aja De Coudreaux, *et al.*,

Plaintiffs,

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Kombu Kitchen SF, LLC, a California
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Defendants.

Ma De Jesus Vergara, *et al.*,

Plaintiffs.

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Kombu Kitchen SF, LLC, a California
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individual.

Defendants.

Case No. RG20058323 (consolidated
with RG20057449)

Reservation No.: 300541827797

ASSIGNED FOR ALL PURPOSES TO:
JUDGE Michael Markman
DEPARTMENT 23, Rene C. Davidson
Courthouse

**OMNIBUS DECLARATION OF JANNETT
MAYORAL IN SUPPORT OF MOTION
FOR SUMMARY ADJUDICATION ON
PLAINTIFFS' CLAIMS UNDER LABOR
CODE § 558.1 AND DEFENDANTS KEVÉN
THIBEAULT AND KRISTEN
THIBEAULT'S MOTION FOR SUMMARY
ADJUDICATION ON PLAINTIFFS'
CLAIMS UNDER PAGA IN *VERGARA*
ACTION AND *COUDREAUX* ACTION**

Hearing Date: November 19, 2024
Time: 10:00 a.m.
Dept. 23

Bench Trial Date: No Trial Date

1 I, Jannet Mayoral, hereby declare as follows:

2 1. I make this declaration based on my own personal knowledge, and if called as a
3 witness to testify as to the facts set forth herein, I could and would testify competently with respect
4 thereto. I make this omnibus declaration in support of Defendant Kevén Thibeault's Motion for
5 Summary Adjudication on Plaintiffs' Claims under Labor Code § 558.1 and Defendants Kevén
6 Thibeault and Kristen Thibeault's Motion for Summary Adjudication on Plaintiffs' Claims under
7 PAGA.

8 2. I am a Concierge Supervisor for Kombu Kitchen SF, LLC.

9 3. I have never observed Kevén Thibeault or Kristen Thibeault being involved in reviewing
10 employees' time records, monitoring whether employees take their full meal or rest breaks, or
11 monitoring whether employees are reimbursed for any personal expenses incurred.

12 4. I have never communicated with Kevén Thibeault or Kristen Thibeault regarding
13 employment matters relating to meal breaks, rest breaks, or expense reimbursement.

14 5. The Employee Conduct Policy for Client Interaction was only provided to Concierge
15 employees (*i.e.*, employees who served food at clients' offsite locations) at an Oakland facility in late
16 2019.

17
18 I declare under the penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed on this 5th day of September 2024.

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Signed by:
Jannet Mayoral

Exhibit 6

GAROFOLO & RAMSDELL, LLP
Craig P. Ramsdell (State Bar No. 303942)
Joseph A. Garofolo (State Bar No. 214614)
3443 Golden Gate Way, Suite H
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Tel: 415-981-8500
Fax: 415-981-8870
E-mail: cramsdell@garofololaw.com
E-mail: jgarofolo@garofololaw.com

Attorneys for Defendants
Kevén Thibeault and Kristen Thibeault

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

Aja De Coudreaux, *et al.*,

Plaintiffs,

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Ma De Jesus Vergara, *et al.*,

Plaintiffs.

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Case No. RG20058323 (consolidated
with RG20057449)

Reservation No.: 300541827797

ASSIGNED FOR ALL PURPOSES TO:
JUDGE Michael Markman
DEPARTMENT 23, Rene C. Davidson
Courthouse

**OMNIBUS DECLARATION OF HEVER
MENDEZ IN SUPPORT OF MOTION FOR
SUMMARY ADJUDICATION ON
PLAINTIFFS' CLAIMS UNDER LABOR
CODE § 558.1 AND DEFENDANTS KEVÉN
THIBEAULT AND KRISTEN
THIBEAULT'S MOTION FOR SUMMARY
ADJUDICATION ON PLAINTIFFS'
CLAIMS UNDER PAGA IN *VERGARA*
ACTION AND *COUDREAUX* ACTION**

Hearing Date: November 19, 2024
Time: 10:00 a.m.
Dept. 23

Bench Trial Date: No Trial Date

1 I, Hever Mendez, hereby declare as follows:

2 1. I make this declaration based on my own personal knowledge, and if called as a witness
3 to testify as to the facts set forth herein, I could and would testify competently with respect thereto. I
4 make this omnibus declaration in support of Defendant Kevén Thibeault's Motion for Summary
5 Adjudication on Plaintiffs' Claims under Labor Code § 558.1 and Defendants Kevén Thibeault and
6 Kristen Thibeault's Motion for Summary Adjudication on Plaintiffs' Claims under PAGA.

7 2. I have been Kitchen BOH Supervisor for Kombu Kitchen SF, LLC from 2015 to the
8 present.

9 3. I have never observed Kevén Thibeault or Kristen Thibeault involved in reviewing
10 employees' time records, monitoring whether employees take their full meal or rest breaks, or
11 monitoring whether employees are reimbursed for any personal expenses incurred.

12 4. I have never communicated with Kevén Thibeault or Kristen Thibeault regarding
13 employment matters relating to meal breaks, rest breaks, or expense reimbursement.

14
15 I declare under the penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed on this 5th day of September 2024.


17 DocuSigned by:
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19 3BBD4001C2734A6...
20 Hever Mendez
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Exhibit 7

GAROFOLLO & RAMSDELL, LLP
Craig P. Ramsdell (State Bar No. 303942)
Joseph A. Garofolo (State Bar No. 214614)
3443 Golden Gate Way, Suite H
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Fax: 415-981-8870
E-mail: cramsdell@garofololaw.com
E-mail: jgarofolo@garofololaw.com

Attorneys for Defendants
Kevén Thibeault and Kristen Thibeault

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

Aja De Coudreaux, *et al.*,

Plaintiffs,

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Ma De Jesus Vergara, *et al.*,

Plaintiffs.

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Case No. RG20058323 (consolidated
with RG20057449)

Reservation No.: 423177446001

ASSIGNED FOR ALL PURPOSES TO:
JUDGE Michael Markman
DEPARTMENT 23, Rene C. Davidson
Courthouse

**OMNIBUS DECLARATION OF JANNETT
MAYORAL IN SUPPORT OF MOTION
FOR SUMMARY ADJUDICATION ON
PLAINTIFFS' CLAIMS UNDER LABOR
CODE § 558.1 AND DEFENDANTS KEVÉN
THIBEAULT AND KRISTEN
THIBEAULT'S MOTION FOR SUMMARY
ADJUDICATION ON PLAINTIFFS'
CLAIMS UNDER PAGA IN *VERGARA*
ACTION AND *COUDREAUX* ACTION**

Hearing Date: December 17, 2024
Time: 10:00 a.m.
Dept. 23

Bench Trial Date: No Trial Date

1 I, Jannet Mayoral, hereby declare as follows:

2 1. I make this declaration based on my own personal knowledge, and if called as a
3 witness to testify as to the facts set forth herein, I could and would testify competently with respect
4 thereto. I make this omnibus declaration in support of Defendant Kevén Thibeault's Motion for
5 Summary Adjudication on Plaintiffs' Claims under Labor Code § 558.1 and Defendants Kevén
6 Thibeault and Kristen Thibeault's Motion for Summary Adjudication on Plaintiffs' Claims under
7 PAGA.

8 2. I am a Concierge Supervisor for Kombu Kitchen SF, LLC.

9 3. I have never observed Kevén Thibeault or Kristen Thibeault being involved in reviewing
10 employees' time records, monitoring whether employees take their full meal or rest breaks, or
11 monitoring whether employees are reimbursed for any personal expenses incurred.

12 4. I have never communicated with Kevén Thibeault or Kristen Thibeault regarding
13 employment matters relating to meal breaks, rest breaks, or expense reimbursement.

14 5. The Employee Conduct Policy for Client Interaction was only provided to Concierge
15 employees (*i.e.*, employees who served food at clients' offsite locations) at an Oakland facility in late
16 2019.

17
18 I declare under the penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed on this 5th day of September 2024.

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22 Jannet Mayoral
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Exhibit 8

Friday, September 27, 2024 at 15:00:34 Pacific Daylight Time

Exhibit 9

Friday, September 27, 2024 at 15:01:04 Pacific Daylight Time

Exhibit 10

Friday, September 27, 2024 at 15:02:44 Pacific Daylight Time

Exhibit 11

Friday, September 27, 2024 at 15:03:15 Pacific Daylight Time

Exhibit 12

I, Dontae Haggerty, declare as follows:

1. My name is Dontae Haggerty. I have personal knowledge of the facts stated herein and if called upon as a witness could and would testify to them competently.
2. At the time of signing this document, I understand that I am a class member in the case entitled *Vergara et al. v. Kombu Kitchen SF LLC et al.* (Case No. RG20057449) and that I have not opted out of the class. Otherwise, I do not have an attorney representing me in this lawsuit.
3. I have been contacted multiple times by Kristin Thibeault regarding the lawsuit against Kombu Kitchen.
4. Recently, Ms. Thibeault emailed me asking if I would agree to be represented by a Kombu Kitchen attorney, stating that I should simply reply by saying "yes" or "no." I have not replied to that email at the time of signing this document.
5. Prior to that, Ms. Thibeault contacted me to request that I sign a document. Afterwards, an attorney named Craig Ramsdell provided me a document to sign over email, which I signed using Docusign. A true and correct copy of that document is attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 26/09/2024 (Date).


Dontae Haggerty (Sup JS, 2024 11-01 PDI)

Dante Haggerty






Haggerty Dec

Final Audit Report

2024-09-26

Created:	2024-09-26
By:	Paul Pfeilschifter (paul.pfeilschifter@gmail.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAavyM3NUKVVyTEy1n1Wp3BTJYbGEf8IPF

"Haggerty Dec" History

-  Document created by Paul Pfeilschifter (paul.pfeilschifter@gmail.com)
2024-09-26 - 6:28:13 PM GMT - IP address: 76.126.107.91
-  Document emailed to Dontae Haggerty (dontaehaggerty@gmail.com) for signature
2024-09-26 - 6:28:26 PM GMT
-  Email viewed by Dontae Haggerty (dontaehaggerty@gmail.com)
2024-09-26 - 9:05:20 PM GMT - IP address: 172.59.161.7
-  Document e-signed by Dontae Haggerty (dontaehaggerty@gmail.com)
Signature Date: 2024-09-26 - 9:07:05 PM GMT - Time Source: server- IP address: 172.59.161.7
-  Agreement completed.
2024-09-26 - 9:07:05 PM GMT



Adobe Acrobat Sign

GAROFOLO & RAMSDELL, LLP
Craig P. Ramsdell (State Bar No. 303942)
Joseph A. Garofolo (State Bar No. 214614)
3443 Golden Gate Way, Suite H
Lafayette, CA 94549
Tel: 415-981-8500
Fax: 415-981-8870
E-mail: cramsdell@garofololaw.com
E-mail: jgarofolo@garofololaw.com

Attorneys for Defendants
Kevén Thibeault and Kristen Thibeault

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

Aja De Coudreaux, *et al.*,

Plaintiffs,

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Ma De Jesus Vergara, *et al.*,

Plaintiffs.

v.

Kombu Kitchen SF, LLC, a California
limited liability company, Kevén Thibeault,
an individual, and Kristen Thibeault, an
individual.

Defendants.

Case No. RG20058323 (consolidated
with RG20057449)

Reservation No.: 300541827797

ASSIGNED FOR ALL PURPOSES TO:
JUDGE Michael Markman
DEPARTMENT 23, Rene C. Davidson
Courthouse

**OMNIBUS DECLARATION OF DONTAE
HAGGERTY IN SUPPORT OF MOTION
FOR SUMMARY ADJUDICATION ON
PLAINTIFFS' CLAIMS UNDER LABOR
CODE § 558.1 AND DEFENDANTS KEVÉN
THIBEAULT AND KRISTEN
THIBEAULT'S MOTION FOR SUMMARY
ADJUDICATION ON PLAINTIFFS'
CLAIMS UNDER PAGA IN *VERGARA*
ACTION AND *COUDREAUX* ACTION**

Hearing Date: November 19, 2024
Time: 10:00 a.m.
Dept. 23

Bench Trial Date: No Trial Date

1 I, Dontae Haggerty, hereby declare as follows:

2 1. I make this declaration based on my own personal knowledge, and if called as a witness
3 to testify as to the facts set forth herein, I could and would testify competently with respect thereto. I
4 make this omnibus declaration in support of Defendant Kevén Thibeault's Motion for Summary
5 Adjudication on Plaintiffs' Claims under Labor Code § 558.1 and Defendants Kevén Thibeault and
6 Kristen Thibeault's Motion for Summary Adjudication on Plaintiffs' Claims under PAGA.

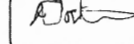
7 2. I was a Kitchen Supervisor for Kombu Kitchen SF, LLC from 2017 to 2020.

8 3. I have never observed Kevén Thibeault or Kristen Thibeault involved in reviewing
9 employees' time records, monitoring whether employees take their full meal or rest breaks, or
10 monitoring whether employees are reimbursed for any personal expenses incurred.

11 4. I have never communicated with Kevén Thibeault or Kristen Thibeault regarding
12 employment matters relating to meal breaks, rest breaks, or expense reimbursement.

13
14 I declare under the penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct. Executed on this 5th day of September 2024.

16 DocuSigned by:

17 

80011488F44E4DC

Dontae Haggerty

PROOF OF SERVICE

I am employed in the County of Alameda, State of California. I am over the age of 18 and not a party to the within action; my business address is 1939 Harrison Street, Suite 730, Oakland, California 94612.

On September 30, 2024, I served the documents described as:

• **Plaintiffs' Supplemental Case Management Statement**

on *Interested Parties at the following* addresses:

Craig P. Ramsdell
Garofolo & Ramsdell, LLP
3443 Golden Gate Way, Suite H
Lafayette, CA 94549
Email: cramsdell@garofololaw.com
jgarofolo@garofololaw.com

Adam Tate
Dirk Julander
Catherine Close
Helene Saller
Julander Brown & Bollard
9110 Irvine Center Drive,
Irvine, CA 92618
E-Mail: Adam@jbblaw.com
doj@jbblaw.com
cac@jbblaw.com
helene@jbblaw.com

Attorney for Defendants Kristin Thibeault; and
Kevin Thibeault.

Attorney for Defendant Kombu Kitchen SF,
LLC

☐ **BY U.S. MAIL:** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Oakland, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit.

☒ **BY E-Mail:** By transmitting the foregoing documents to the e-mail addresses listed above. The transmission was reported completed and without error. The foregoing documents were emailed from darjona@themmlawfirm.com.

☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 30, 2024 at Oakland, California.



Daniel Arjona

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
11766 Wilshire Blvd, Suite 730, Los Angeles, CA 90025

A true and correct copy of the foregoing document entitled (*specify*): **Julander Brown & Bollard, LLP's Reply to Class Creditors Joint Opposition to Application of Julander Brown & Bollard, LLP, Debtor's Special Litigation Counsel, for Approval of Compensation and Reimbursement of Expenses**, will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) October 9, 2024, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See attached NEF service list.

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) October 9, 2024, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Sandra R. Klein (Via Priority Mail)
United States Bankruptcy Judge
255 E. Temple St., Suite 1582
Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 9, 2024
Date

Martha E. Araki
Printed Name

/s/ Martha E. Araki
Signature

In re Kombu Kitchen SF LLC

Case No. 2:23-bk-17276-SK

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

- Attorneys for Debtor Kombu Kitchen SF LLC: **Daniel J. Weintraub, David B. Zolkin, James R. Selth, Catherine Liu:** dweintraub@wztslaw.com; dzolkin@wztslaw.com; jselth@wztslaw.com; cliu@wztslaw.com; maraki@wztslaw.com; sfritz@wztslaw.com
- Subchapter V Trustee: **Mark Sharf:** mark@sharflaw.com; C188@ecfcbis.com; sharf1000@gmail.com; 2180473420@filings.docketbird.com
- Attorneys for American Express National Bank c/o Zwicker & Associates, P.C.: **Karen L. Belair:** kbelair@zwickerpc.com
- Attorneys for Creditors Maria de Jesus Vergara and Aja de Coudreaux, and Attorney Paul Pfeilschiefter: **Cody Alexander Bolce:** cbolce@themmlawfirm.com; enotices@themmlawfirm.com
- Interested Party/Courtesy NEF: **Todd S. Garan:** ch11ecf@aldridgепite.com; TSG@ecf.inforuptcy.com; tgaran@aldridgепite.com
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